

1-22-2008

# Hausladen v. Knoche Clerk's Record v. 1 Dckt. 35996

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LAW CLERK

Vol. 1 of 1

35996

IN THE SUPREME COURT  
OF THE STATE OF IDAHO

FRANK WILLIAM HAUSLADEN, JR.,  
Petitioner-Appellant,

vs.

SHARI COLENE KNOCHE,  
Defendant-Respondent,

JOHN H. SALIN,  
Judgment Creditor on Appeal.

TRANSCRIPT ON APPEAL

In the District Court of the First Judicial District of  
the State of Idaho, in and for the County of Kootenai

**COPY**  
ATTORNEY FOR APPELLANT

Pro Se

JAN 22 2003

ATTORNEY FOR RESPONDENT

Supreme Court Court of Appeals  
Entered on AJS by: Richard Kochansky

JUDGMENT CREDITOR ON APPEAL

John H. Sahlin

SUPREME COURT DOCKET #34728

35996

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

FRANK WILLIAM HAUSLADEN JR.,	)	
	)	
Petitioner/Appellant,	)	CV 00-5967
	)	
vs.	)	SUPREME COURT DOCKET
	)	#34728
SHARI COLENE KNOCHE,	)	
	)	
Defendant/Respondent,	)	
	)	
JOHN H. SALIN,	)	
Judgment Creditor on Appeal.	)	
_____	)	

**CLERK'S RECORD ON APPEAL**

Appeal from the District Court of the First Judicial District of the State of Idaho, in and  
for the County of Kootenai

HONORABLE CHARLES W. HOSACK  
District Judge

**Attorney for Appellant**

PRO SE  
123 S 3<sup>rd</sup> St #9  
ISB#1208  
Sandpoint, ID 83864

**Attorney for Respondent**

RICHARD KOCHANSKY  
ISB#2435  
408 E Sherman Ave. #309  
Coeur d'Alene, ID 83814

**Judgment Creditor on Appeal**

John H. Sahlin  
ISB#3303  
PO Box 194  
Coeur d'Alene, ID 83814

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was [X] faxed; [ ] mailed by me, First Class mail, postage prepaid this 31 day of July, 2006, to:

FRANK WILLIAM HAUSLADEN JR.

C/O Mark Jones Law Office

123 S 3<sup>rd</sup> St Suite 3

Sandpoint ID 83864

Fax # 208-263-0957

Richard Kochansky

Attorney at Law

Fax # 765-3867

DANIEL J. ENGLISH

Joanna Parker  
Deputy Clerk



RICHARD W. KOCHANSKY  
408 E. Sherman, Suite 309  
Coeur d'Alene, ID 83814  
(208) 667-4595 ISB #2435  
Attorney for Respondent

STATE OF IDAHO }  
COUNTY OF KOOTENAI } SS  
FILED

2006 JUL 31 PM 1:55

CLERK DISTRICT COURT  
*[Signature]*  
DEPUTY *d.k.*

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

FRANK WILLIAM HAUSLADEN, )  
 )  
 ) Petitioner, )  
 )  
 ) vs. )  
 )  
 ) SHARI COLENE (DAWSON) KNOCHE, )  
 )  
 ) Respondent. )  
 )

Case No. CV 00-5967

ORDER REGARDING CUSTODY OF  
PASSPORT

AT A HEARING held on July 17, 2006 addressing several matters, Petitioner made an oral Motion to exchange BRANDON's passport between Petitioner and Respondent, including the request that a third party hold such passport until such time as BRANDON needs it, and/or to impose a financial penalty on either parent who fails to timely provide such passport upon request by the other party – even though Respondent arranged and paid for such passport.

The Court having heard argument of Counsel on such Motion,

IT IS HEREBY ORDERED that Petitioner's Motion is denied, and that Respondent shall be the custodian of BRANDON's passport.

DATED this 26 day of July 2006.

*[Signature]*  
BARRY E. WATSON  
Magistrate

CLERK'S CERTIFICATE OF DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing Order Regarding Custody of Passport:

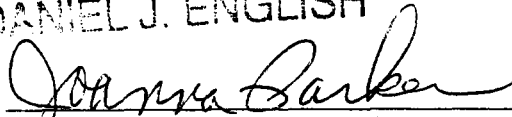
- [ ] Mailed via US mail, postage prepaid  
[ ] Personally delivered  
[+] Faxed

this 31 day of July 2006 to:

F. William Hausladen  
c/o Mark Jones  
Fax No. 208.263.0957

Richard W. Kochansky  
Attorney at Law  
Fax No. 765.3867

DANIEL J. ENGLISH

  
CLERK

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED

2006 JUL 31 PM 1:55

CLERK DISTRICT COURT  
*[Signature]*  
DEPUTY *J.R.*

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
MAGISTRATE DIVISION

FRANK WILLIAM HAUSLADEN, JR.	)	
	)	
Petitioner,	)	CASE NO. CV-00-5967
	)	
vs.	)	ORDER
	)	RE: ADDITIONAL
SHARI COLENE KNOCHE	)	PARENTING TIME
	)	FOR PETITIONER
Respondent,	)	
	)	

---

THE COURT HAVING HEARD Petitioner's motion entitled "MOTION FOR ADDITIONAL PARENTING TIME FOR PETITIONER" on July 17, 2006, with Petitioner, F. William Hausladen, Jr., pro se, being present and Respondent, Shari Knoche, being present and represented by and through her attorney of record, Richard Kochansky, and upon hearing argument from both parties and reviewing the documents submitted by the parties:

IT IS HERBY DETERMINED AND ORDERED:

A one (1) time alteration of this summer's parenting schedule: for Respondent to deliver the minor child at 6:00 p.m. on Wednesday, July 19, 2006, to Petitioner at the normal "drop-off" location in Athol, Idaho; Petitioner will be the on-duty parent from 6:00 p.m. on Wednesday, July 19, 2006, until Friday, July 28, 2006, at 5:00 p.m.

Dated this 24 day of July, 2006.

*[Signature]*  
HONORABLE BARRY E. WATSON  
Magistrate Judge

ORDER  
RE: Additional Parenting Time for Petitioner  
(Hearing on 7-17-06)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 31 day of July, 2006, I served a true and correct copy of the foregoing on the individuals listed below, by the following method/s:

Richard Kochansky  
Attorney at Law  
408 E. Sherman Ave., #309  
Coeur d'Alene, ID 83814

☐ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☒ Facsimile transmission to 7165-3867

F. William Hausladen, Jr.  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Suite 3  
Sandpoint, ID 83864

☐ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to 208-263-0957

DANIEL J. ENGLISH

*Joanna Barker*

STATE OF IDAHO } ss  
COUNTY OF KOOTENAI  
FILED: 9-8-06  
AT 3:40 O'CLOCK PM  
CLERK, DISTRICT COURT

*[Signature]*  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
MAGISTRATE DIVISION

FRANK WILLIAM HAUSLADEN, JR. )

Petitioner, )

vs. )

SHARI COLENE KNOCHE )

Respondent, )

CASE NO. CV-00-5967

ORDER

RE: TRADE OF  
PARENTING TIME


THE COURT HAVING HEARD Petitioner's motion entitled "MOTION FOR  
ADDITIONAL PARENTING TIME FOR PETITIONER" on July 17, 2006, with  
Petitioner, F. William Hausladen, Jr., pro se, being present and Respondent, Shari  
Knoche, being present and represented by and through her attorney of record, Richard  
Kochansky, and upon hearing argument from both parties and reviewing the documents  
submitted by the parties:

IT IS HERBY DETERMINED AND ORDERED:

A one (1) time alteration of the parenting schedule (resulting in a trade/swap of  
parenting time): Respondent shall be the on-duty parent during Petitioner's parenting  
time scheduled for Wednesday, September ~~13~~<sup>27</sup> 2006 after school until Sunday, ~~September~~<sup>October</sup>  
~~12~~<sup>1</sup> 2006 at 6:00 p.m. and Petitioner shall be the on-duty parent during Respondent's  
parenting time scheduled for Wednesday, October 18, 2006, until Sunday, October 22,  
2006 at 6:00 p.m.

ORDER  
RE: Trade Parenting Time  
(Hearing on 9-8-06)

Dated this 8th day of September, 2006.

  
HONORABLE BARRY E. WATSON  
Magistrate Judge

**CERTIFICATE OF SERVICE**


I hereby certify that on this 8 day of September, 2006, I served a true and correct copy of the foregoing on the individuals listed below, by the following method/s:

Richard Kochansky  
Attorney at Law  
408 E. Sherman Ave., #309  
Coeur d'Alene, ID 83814

☒ U.S. Mail, ~~postage prepaid~~  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

F. William Hausladen, Jr.  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Suite 3  
Sandpoint, ID 83864

☒ U.S. Mail, ~~postage prepaid~~  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

by: 

RICHARD W. KOCHANSKY  
408 E. Sherman, Suite 309  
Coeur d'Alene, ID 83814  
(208) 667-4595 ISB #2435  
Attorney for Respondent

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED

2006 SEP 18 AM 10:13

CLERK DISTRICT COURT  
*Cathy Victoria*  
DEPUTY CLERK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

FRANK WILLIAM HAUSLADEN,

Petitioner,

vs.

SHARI COLENE (DAWSON) KNOCHE,

Respondent.

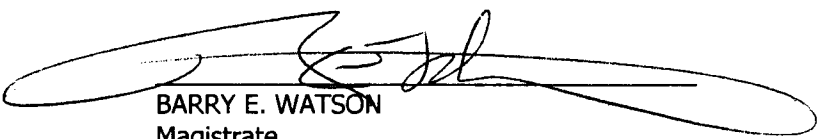
Case No. CV 00-5967

AMENDED ORDER REGARDING  
CUSTODY OF PASSPORT

AT A HEARING held on September 8, 2006 addressing Petitioner's Motion to Strike Order Regarding Custody of Passport, and the Court having heard argument of counsel, it is hereby Ordered that the Order Regarding Custody of Passport entered on July 31, 2006 shall be amended to read as follows:

IT IS HEREBY ORDERED that Petitioner's Motion is denied, and that Respondent shall be the custodian of BRANDON'S passport; however, upon receipt of twenty-four (24) hours notice from Petitioner, the Respondent shall provide said passport to Petitioner for BRANDON'S use; and the Petitioner shall return said passport to Respondent within twenty-four (24) hours of BRANDON'S return from the trip for which the passport use was required.

DATED this 15 day of September 2006.

  
BARRY E. WATSON  
Magistrate

CLERK'S CERTIFICATE OF DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing Order Regarding Custody of Passport:

- ☐ Mailed via US mail, postage prepaid  
☐ Personally delivered  
☒ Faxed

this 18 day of September 2006 to:

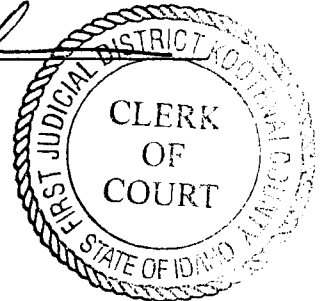
F. William Hausladen  
c/o Mark Jones  
Fax No. 208.263.0957

Richard W. Kochansky  
Attorney at Law  
Fax No. 765.3867

DANIEL J. ENGLISH

CLERK

*Cheney'd*





F. William Hausladen, Jr., Petitioner  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Suite 9  
Sandpoint, ID 83864

STATE OF IDAHO  
CLERK OF DISTRICT COURT  
NOV 21 2006 9:35  
DANIELLE GLATICH  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
MAGISTRATE DIVISION

FRANK WILLIAM HAUSLADEN, JR.	)	
	)	
Petitioner,	)	CASE NO. CV-00-5967
	)	
vs.	)	OBJECTION TO TRANSCRIPT
	)	& MOTION TO CORRECT
	)	TRANSCRIPT
SHARI COLENE KNOCHE	)	
	)	
Respondent,	)	
_____	)	

COMES NOW, Petitioner, Frank William Hausladen, Jr., and objects to the content of a transcript entitled "Various Motion Hearings" and moves this Court to prevent the transcript from being settled and to order a correction of certain items contained in said transcript.

The basis of this motion is Idaho Rule of Civil Procedure 83(o) which requires "[a]ny party to object to the content of the transcript within 21 days from the date of mailing of the notice to the parties. . ." or "else the transcript shall be deemed settled."

I.R.C.P. 83(o) further requires that "[a]ny objection made to the trial transcript shall be heard and determined by the trial court in the same manner as a motion."

Petitioner further requests to present testimony and evidence, cross examine Respondent's witnesses and to present oral argument at the time of hearing.

Dated this 21 day of November 2006.

  
F. William Hausladen, Jr., Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22 day of November, 2006, I served a true and correct copy of the foregoing on the individuals listed below, by the following method/s:

Richard Kochansky  
408 E. Sherman Ave., #309  
Coeur d'Alene, ID 83814

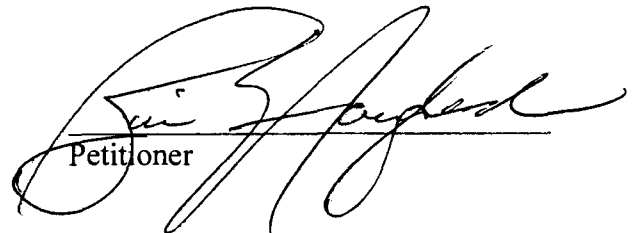
☒ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

John Sahlin  
Former Parenting Coordinator  
P.O. Box 194  
Coeur d'Alene, ID 83816

☒ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

Christine Campbell

☐ U.S. Mail, postage prepaid  
☒ Hand Delivered to Kootenai County Courthouse  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

  
\_\_\_\_\_  
Petitioner

STATED CLERK  
COUNTY OF KOOTENAI  
ID

NOV 13 10:45

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

FRANK W. HAUSLADEN,

Plaintiff,

vs.

SHARI COLENE KNOCHE,

Defendant.

CASE NO. CV-00-5967

RECEIPT OF TRANSCRIPT

Various Motion Hearings

On this 13<sup>th</sup> day of November, 2006, I picked  
up my copy/copies of the transcript(s) that were prepared on the  
above entitled matter per the Notice of Appeal filed July 17,  
2006.

  
Frank W. Hausladen, Plaintiff

I hereby certify that I hand  
delivered the transcript(s) to  
the above signed.

DANIEL J. ENGLISH,  
CLERK OF THE DISTRICT COURT

BY Cathy Victoria  
Deputy Clerk

Receipt of Transcript

STATE OF IDAHO } ss  
COUNTY OF KOOTENAI  
FILED: 12-22-06  
AT 1:11 O'CLOCK P.M.  
CLERK DISTRICT COURT  
*[Signature]*  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
MAGISTRATE DIVISION

FRANK WILLIAM HAUSLADEN, JR.	)	
	)	
Petitioner,	)	CASE NO. CV-00-5967
	)	
	)	ORDER
vs.	)	RE: RESTRICTION ON
	)	FOREIGN TRAVEL WITH
SHARI COLENE KNOCHE	)	<b>MINOR CHILD</b>
	)	
Respondent,	)	
	)	

---

THE COURT HAVING HEARD Petitioner's motion entitled "MOTION FOR ORDER TO RESTRICT FOREIGN TRAVEL" on December 20, 2006, with Petitioner, F. William Hausladen, Jr., pro se, being present and Respondent, absent, and represented by and through her attorney of record, Richard Kochansky, and upon hearing argument from both parties and reviewing the documents submitted by the parties:

IT IS HERBY DETERMINED AND ORDERED:

- (1) The order entitled "ORDER REGARDING PERMISSION TO TAKE **MINOR CHILD** OUT OF COUNTRY" entered on July 11, 2006, is too overbroad and shall be subject to the restrictions set forth herein;
- (2) The order entitled "ORDER REGARDING PERMISSION TO TAKE **MINOR CHILD** OUT OF COUNTRY" shall be "edited" by the Court and the words "RESTRICTED BY SUBSEQUENT

ORDER  
RE: Restriction on Foreign Travel  
(Hearing on 12-20-06)  
**RESTRICTS 7-11-06 ORDER**

ORDER” or similar language written on said original order in the file of the Clerk of Kootenai County.

- (3) Travel outside of the fifty (50) United States of America, the District of Columbia and/or Canada with the minor child shall only be done after giving at least twenty-one (21) days written notice to the other parent.
- (4) The twenty-one (21) day notice requirement shall be determined based on the Idaho Rules of Civil Procedure.

Dated this 22 day of December, 2006.



HONORABLE BARRY E. WATSON  
Magistrate Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22 day of <sup>Dec</sup>~~September~~, 2006, I served a true and correct copy of the foregoing on the individuals listed below, by the following method/s:

Richard Kochansky  
Attorney at Law  
408 E. Sherman Ave., #309  
Coeur d'Alene, ID 83814

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☒ Facsimile transmission to 7165 3867

F. William Hausladen, Jr.  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Suite 3  
Sandpoint, ID 83864

- ☐ U.S. Mail, postage prepaid
- ☒ Hand Delivered
- ☐ Overnight Mail
- ☐ Facsimile transmission to \_\_\_\_\_

by: Monica K. Collins

STATE OF IDAHO } ss  
COUNTY OF KOOTENAI  
FILED: 12-22-06  
AT 1:11 O'CLOCK P.M.  
CLERK, DISTRICT COURT  
*[Signature]*  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
MAGISTRATE DIVISION

FRANK WILLIAM HAUSLADEN, JR.	)	
	)	
Petitioner,	)	CASE NO. CV-00-5967
	)	
	)	ORDER
vs.	)	RE: CORRECTION OF
	)	"ORDER TO MODIFY
SHARI COLENE KNOCHE	)	CUSTODY" DATED
	)	2-2-05
Respondent,	)	(Correction of Christmas
	)	Break Definition)

THE COURT HAVING HEARD Petitioner's motion entitled "MOTION TO CORRECT ORDER" on December 20, 2006, with Petitioner, F. William Hausladen, Jr., pro se, being present and Respondent, absent, and represented by and through her attorney of record, Richard Kochansky, and upon hearing argument from both parties and reviewing the documents submitted by the parties:

IT IS HERBY DETERMINED AND ORDERED:

That "December 2t" the end of line 4, under paragraph "O" at the bottom of page 5, shall be deleted and corrected/replaced with "December 25". The language "2t" was a typographical error which was not discovered until after said order was entered.

Dated this 22 day of December, 2006.

*[Signature]*  
HONORABLE BARRY E. WATSON  
Magistrate Judge

ORDER  
RE: Correct Order – Definition of Christmas Break  
(Hearing on 12-20-06)

**CERTIFICATE OF SERVICE**

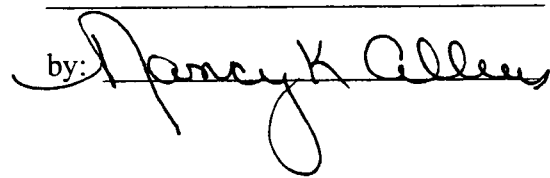
I hereby certify that on this 22 day of ~~September~~<sup>Dec</sup>, 2006, I served a true and correct copy of the foregoing on the individuals listed below, by the following method/s:

Richard Kochansky  
Attorney at Law  
408 E. Sherman Ave., #309  
Coeur d'Alene, ID 83814


☐ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☒ Facsimile transmission to 765 3867

F. William Hausladen, Jr.  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Suite 3  
Sandpoint, ID 83864

☐ U.S. Mail, postage prepaid  
☒ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

by: 



STATE OF IDAHO }  
COUNTY OF KOOTENAI } **SS**  
FILED: 12-22-06  
AT 1:11 O'CLOCK P.M.  
CLERK, DISTRICT COURT  
  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
MAGISTRATE DIVISION


FRANK WILLIAM HAUSLADEN, JR.	)	
	)	
Petitioner,	)	CASE NO. CV-00-5967
	)	
	)	ORDER
vs.	)	RE: CORRECTION OF
	)	TRANSCRIPT
SHARI COLENE KNOCH	)	
	)	
Respondent,	)	
_____	)	

THE COURT HAVING HEARD Petitioner's motion entitled "OBJECTION TO TRANSCRIPT & MOTION TO CORRECT TRANSCRIPT" on December 20, 2006, with Petitioner, F. William Hausladen, Jr., pro se, being present and Respondent, absent, and represented by and through her attorney of record, Richard Kochansky, and the former Parent Coordinator, John Sahlin, being present and upon hearing argument from both parties and reviewing the documents submitted by the parties:

IT IS HERBY DETERMINED AND ORDERED based upon the stipulation of the parties and John Sahlin, the former Parent Coordinator:

The transcript entitled "Various Motion Hearings" (hearings held on December 7, 2005, December 30, 2005 and June 5, 2006) shall be corrected on pages 8, 35, 37, 46, 133, 137, 142, 144, 145 and 146 in the manner set forth on the attached copies of said pages, incorporated herein by this reference.

Dated this 22 day of December, 2006.

  
HONORABLE BARRY E. WATSON  
Magistrate Judge

ORDER  
RE: Correct Transcript  
(Hearing on 12-20-06)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22 day of December, 2006, I served a true and correct copy of the foregoing on the individuals listed below, by the following method/s:

Richard Kochansky  
Attorney at Law  
408 E. Sherman Ave., #309  
Coeur d'Alene, ID 83814

☐ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☒ Facsimile transmission to 765-3867

F. William Hausladen, Jr.  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Suite 3  
Sandpoint, ID 83864

☐ U.S. Mail, postage prepaid  
☒ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

John Sahlin  
Former Parenting Coordinator  
P.O. Box 194  
Coeur d'Alene, ID 83816

☐ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☒ Facsimile transmission to 664-4370

Christine Campbell

☐ U.S. Mail, postage prepaid  
☒ Hand Delivered to Kootenai County Courthouse I/O  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

by: \_\_\_\_\_

*Nancy K. Allens*

1 objection to the -- to the September 28 order as respect  
2 to the financial issue, but there's no valid objection to  
3 the rescheduling of the make-up time, that's the way I see  
4 this.

5 THE COURT: Okay.

6 MR. SAHLIN: And as far as the financial issue is  
7 concerned, under my order of appointment there's no  
8 authority granted to me, it just says John Sahlin is the  
9 parenting coordinator and the costs split 50/50. So I  
10 really don't have authority, specific authority, either  
11 under the rule or under the order of appointment to make  
12 any -- even a recommendation without the satisfaction of  
13 this judgment. ABOUT

14 So then the question becomes did the parties either  
15 tacitly or explicitly give me the authority to make that  
16 decision? And whether they did or didn't, if I'm not  
17 given the authority, can I even make that decision anyway?  
18 And that's a purely legal argument so it doesn't require  
19 my testimony.

20 So I suppose as far as my testimony, what I'm saying  
21 is I don't really need to be called.

22 THE COURT: Okay. Mr. Hausladen, what's your  
23 response to that?

24 MR. HAUSLADEN: Well, my response as to -- it's my  
25 understanding Mr. Sahlin is saying uh, there hasn't been

1 these issues.

2 THE COURT: So is it your preference that he remain  
3 available even if you're not going to testi -- or ask him  
4 to testify, or -- or what?

5 MR. HAUSLADEN: It may help to elicit the truth on --  
6 if he is here to impeach someone that's on the stand.  
7 That's my thought.

8 MR. SAHLIN: I'm not gonna impeach anybody.

9 THE COURT: But see, they -- they -- you get into the  
10 problem of -- of the parenting coordinator then testifying  
11 for or against somebody and then that person feels that  
12 they're not being unbiased and then the whole thing  
13 deteriorates. That's why I don't like to do it.

14 MR. HAUSLADEN: And I took your final hit, so I guess  
15 uh -- HINT

16 THE COURT: Pretty big hint.

17 MR. HAUSLADEN: Would -- yes. Well, would Mr. Sahlin  
18 uh, stipulate that he did not have the power to issue  
19 these orders?

20 THE COURT: I'm not even gonna ask him to stipulate  
21 to that. That's -- now, were you going to call Mr. Sahlin  
22 as a witness?

23 MR. KOCHANSKY: No, I was not going to, but if -- if  
24 -- my questions to Shari are gonna be objected to on the  
25 basis of hearsay, then -- the conversation she had with

1 starting December 7th.

2 MR. HAUSLADEN: Correct.

3 THE COURT: I want to give you the opportunity to  
4 indicate why it shouldn't be done that way--

5 MR. HAUSLAUDEN: Sure.

6 <sup>HAUSLADEN</sup> THE COURT: -- or what should be done. What do you  
7 propose? So you need to give me some information to work  
8 with there.

9 MR. HAUSLADEN: I'm following, your Honor. I just  
10 wanted to make sure that we're not on the motion that --  
11 that I filed as far as my objections to Mr. Sahlin were  
12 actually going to Mr. Kochansky's motion which says we get  
13 make-up time.

14 THE COURT: Well, I suppose we -- I suppose that's  
15 correct, yeah.

16 MR. HAUSLADEN: Okay. Well, I -- I just -- never  
17 mind.

18 THE COURT: Okay. Would you like Mr. Kochansky to  
19 start first? Is that what you're saying? Then he should  
20 start first instead?

21 MR. HAUSLADEN: No, your Honor.

22 THE COURT: Okay, go ahead.

23 ---

24 ---

25 ---

1 for the 19th to try to include that. This isn't up for  
2 motion right now. I wanted to get --

3 MR. KOCHANSKY: Okay. I--

4 MR. HAUSLADEN: -- the motion --

5 MR. KOCHANSKY: I'm fine.

6 MR. HAUSLADEN: I mean that makes sense, but let's --

7 THE COURT: Okay, Mr. Hausladen, what would you like  
8 to present on your motion?

9 MR. HAUSLADEN: Well, it's the only hearing that I  
10 have scheduled today --

11 ~~DELETE~~ THE COURT: -- and I didn't intend on bringing forth  
12 any uh, testimony. It's just a matter of judicial --  
13 judicial notice on several items. Uh, and that would be--  
14 this is a motion pursuant to Rule 16(L)(9)(b) on finding  
15 whether or not there are grounds under that specific  
16 section on removal of the court-appointed parenting  
17 coordinator in that he has exceeded his mandate -- uh, the  
18 way I interpret that, his mandate would be the order to  
19 which he was appointed by the Court -- acted in a manner  
20 inconsistent with Rule 16(L), and/or demonstrated bias.

21 THE COURT: All right. And what would you like to  
22 present on that?

23 MR. HAUSLADEN: Uh, the fact that you just take  
24 judicial notice of the actual order that appointed him  
25 whether or not any procedures or powers were enumerated

1 did we have any discussions regarding whether or not those  
2 were proper issues that you could uh, submit orders or  
3 recommendations on.

4 A. I don't recall, but I imagine we did.

5 Q. Okay. Do you recall uh, having a conversation  
6 with me when I indicated that uh, you did not allow me any  
7 time to object to your recommendations before uh, the  
8 remedy that you set forth in the recommendation took  
9 place? For example uh, the make-up time for Shari? Do  
10 you recall that?

11 A. I'm sorry, your question just completely lost me.

12 Q. Okay. Do you recall uh, a telephone conversation  
13 in which uh, I talked to you about the make-up time that  
14 you allocated to Ms. Knoche would take place before I  
15 would even have a chance to object to your  
16 recommendations?

17 A. I recall discussing that issue with you. I don't  
18 recall the particular phone call.

19 Q. Okay.

20 A. In face, I don't even recall that it was a phone  
21 call. fact

22 Q. Okay. Was it your impression when you issued the  
23 order/recommendation dated September 29th, 2005, that Ms.  
24 Dawson would get the make-up time on October 25th?

25 A. I don't recall how that whole dispute got

1 your decision that there would most likely be a  
2 confrontation at Brandon's school between Sharon and  
3 myself in picking Brandon up? SHARI

4 A. I don't recall those details, but I do recall  
5 that you asked me to either rescind my order or revoke it  
6 or something long those lines.

7 Q. And I asked that until the Court could make a  
8 decision on that particular matter? A simple question.

9 A. It wasn't a question, it was a statement.

10 Q. Did I -- and the reason for that request in you  
11 revoking or rescinding your letter --

12 A. I don't --

13 Q. -- was to allow me time to appeal to the Court?

14 A. I don't recall what the reason was.

15 Q. Okay.

16 A. I don't recall how all that came about.

17 Q. Okay. Do you recall having a telephone  
18 conversation and that Brandon's school called me and were  
19 concerned about uh, Ms. Knoche trying to uh, tell them  
20 that an order from you was an order from a judge?

21 A. I don't specifically recall that.

22 Q. You don't recall any of --

23 A. An order --

24 Q. -- that whatsoever?

25 A. An order --



1 UNIDENTIFIED FEMALE VOICE: (inaudible)...

2 THE COURT: Um, well, may I inquire how much longer  
3 this part of the matter's gonna take, do you know?

4 MR. HAUSLADEN: I don't know. I was hoping it would  
5 go quicker, but it seemed like um -- I mean, I could wrap  
6 it up um, and just do legal argument for my side.

7 THE COURT: And how much time would that take?

8 MR. HAUSLADEN: 15 minutes.

9 THE COURT: And then Mr. Sahlin, are you gonna have  
10 any other argument or --

11 MR. SAHLIN: I have just a bit more testimony in  
12 response to the questions I've been asked, but it's not a  
13 whole lot.

14 THE COURT: All right. So if we can get this part  
15 done in let's say 20 minutes, would that give us enough  
16 time to address this uh, parenting (inaudible)...

17 MR. KOCHANSKY: I'd be willing -- as far as my  
18 motions are concerned, I -- argument would take care of  
19 that. I don't plan on putting Ms. Knoche on the stand  
20 unless it's necessary.

21 THE COURT: Do you have testimony on that issue or  
22 just argument? And I can't go late tonight, my son's  
23 graduating high school.

24 MR. HAUSLADEN: I know.

25 THE COURT: Uh, I'm not missing that. I worked too

1 you talking about the beginning of the case?

2 Q. At any time when you acted as parenting  
3 coordinator did you review the Court file to get a general  
4 background of the case?

5 A. I reviewed all five volumes, yes.

6 Q. Okay. Did you review the uh, psychological  
7 reports prepared by Dr. Michael Irving?

8 A. Is it in the Court file? Urban

9 Q. I believe it is.

10 THE COURT: I think there was one in the file early  
11 on but it was -- I'm sure it was sealed.

12 MR. SAHLIN: If it was sealed, I --

13 MR. HAUSLADEN: Both of them were?

14 MR. SAHLIN: If it was sealed I did not review it and  
15 I argued with the clerk about that. I don't know if I  
16 argued with the clerk about that in this case, but I've  
17 argued with the clerk about having access to files as  
18 parenting coordinator um, when various aspects of the  
19 case gets sealed.

20 Q. It's my understanding that there was one order  
21 issued for Mr. Green's report but there was never an order  
22 issued for the uh, Michael Irvin reports. I could be  
23 wrong on that. Urban

24 A. All I can say is if it was sealed I didn't get to  
25 review it. If it -- if it was not sealed, I reviewed it.

1 Q. Do you know uh, Dr. Michael Irvin?

2 A. I do. Urban

3 Q. Okay. What's your personal opinion of his  
4 abilities as a psychiatrist?

5 MR. KOCHANSKY: Judge, I'm gonna -- I'm gonna object  
6 to this as being totally irrelevant to uh, this case that  
7 (inaudible)... for billing.

8 THE COURT: I'm not gonna let you object. That's  
9 between these two. So you sit down.

10 MR. SAHLIN: Well, I object then.

11 (laughter)

12 MR. SAHLIN: I object on --

13 MR. HAUSLADEN: Your Honor, could I --

14 MR. SAHLIN: -- relevance and foundation grounds.

15 THE COURT: Okay. Well --

16 MR. HAUSLADEN: What I'm trying to do --

17 THE COURT: What's the relevance?

18 MR. HAUSLADEN: What I'm trying to do is maybe get  
19 some of this out and have the Court recognize what he says  
20 for the Huntington's uh, motion, the test for  
21 Huntington's.

22 THE COURT: Well --

23 MR. HAUSLADEN: For the motion.

24 THE COURT: I -- I would agree with Mr. Sahlin. I  
25 don't see any relevance to his personal opinion of

1 (inaudible)...

2 Q. What's your physical address where you can be  
3 reached?

4 A. My mailing address is P.O. Box 194, Coeur  
5 d'Alene, 83816.

6 Q. Do you have a physical address where you could be  
7 served with a subpoena for any future items, such as your  
8 opinion on Dr. Irvin that you discussed with me on the  
9 phone before.

10 A. I never discussed my opinion with Dr. Irvin with  
11 you on the phone before.

12 Q. Okay. You never told me that you were a close,  
13 personal friend of Dr. Michael Irvin? Urban

14 A. I probably told you that. It doesn't reflect on  
15 my opinion about his professional competence.

16 Q. Did you ever state uh, that you thought that Dr.  
17 Irvin was   of the highest integrity in performing these  
18 Urban psychological tests?

19 A. I --

20 Q. Or something to that effect?

21 A. I very well may have because that's my opinion of  
22 him.

23 Q. Okay.

24 A. Now that we finally got it out.

25 (laughter

STATE OF IDAHO )  
County of Kootenai ) **SS**  
FILED 2-22-07

AT 4:30 O'clock P M  
CLERK, DISTRICT COURT

Shari L  
Deputy Clerk

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

FRANK W. HAUSLADEN, JR., )  
Plaintiff/Appellant, )  
vs. )  
SHARI C. KNOCHE, )  
Defendant/Respondent. )  
\_\_\_\_\_ )

CASE NO. CV2000-5967

ORDER ESTABLISHING  
BRIEFING SCHEDULE

The above matter having been assigned to Judge Hosack to address the matter on Appeal and Judge Watson having settled the transcript by Order filed on December 22, 2006;

**IT IS HEREBY ORDERED** that Appellant shall file their Brief no later than March 29, 2007 at 5:00 p.m. The Respondent shall file their reply Brief no later than April 26, 2007 at 5:00 p.m. Any final Brief from the Appellant shall be filed no later than May 17, 2007 at 5:00 p.m.

**IT IS FURTHER ORDERED** that if briefs are not filed within the above referenced time limits, the Court may schedule this matter for argument pursuant I.C.R. 54.16; or the Court may dismiss the appeal pursuant to I.C.R. 54.13.

DATED this 22 day of February, 2007.

Charles W. Hosack  
Charles W. Hosack, District Judge

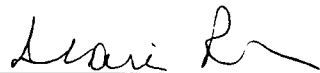
Clerk's Certificate of Mailing

I hereby certify that on the 22<sup>nd</sup> day of February, 2007, that a true and correct copy of the foregoing was mailed/delivered by regular U.S. Mail, postage prepaid, Interoffice Mail, Hand Delivered or Faxed to:

Mail Appellant Pro Se, Frank Hausladen Jr., c/o Mark Jones Law Office, 123 S 3<sup>rd</sup>, Ste 9,  
Sandpoint, ID 83864

Fax Respondent Attorney Richard W. Kochansky, (fax: 765-3867)

DANIEL J. ENGLISH  
CLERK OF THE DISTRICT COURT

BY:   
Deputy Clerk

*Courtesy copy to John Sahlin*  
*2-27-07 sh*

RICHARD W. KOCHANSKY  
408 E. Sherman, Suite 309  
Coeur d'Alene, ID 83814  
(208) 667-4595 ISB #2435  
Attorney for Respondent

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED

2007 MAR 16 PM 2:11

CLERK DISTRICT COURT  
*Daniel Zlatut*  
DEPUTY  
DZ

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

F. WILLIAM HAUSLADEN,	)	
	)	Case No. CV 00-5967
Petitioner,	)	
	)	MOTION FOR APPOINTMENT OF
vs.	)	GUARDIAN AD LITEM/PARENTING
	)	COORDINATOR/ATTORNEY
SHARI COLENE (DAWSON) KNOCHE,	)	AND/OR MOTION FOR ORDER
	)	RELATIVE TO EXTRACURRICULAR
Respondent.	)	ACTIVITIES AND NOTICE OF HEARING <i>ok</i>
	)	

COMES NOW Respondent, SHARI C. KNOCHE, by and through her attorney, RICHARD W. KOCHANSKY, and pursuant to ICCP 16(l), Idaho Code 32-704, Idaho Code 16-1628, and Idaho Code 32-717, hereby Moves the Court for Appointment of Guardian ad Litem/Parenting Coordinator/ Attorney and/or for and Order Relative to Extracurricular Activities, as follows:

Historically, Petitioner and Respondent have been unable to communicate with each other regarding issues revolving around Brandon's interest and well-being. John Sahlin was appointed by Judge Watson to serve as Parenting Coordinator, but was relieved of such duty following Petitioner's dispute with Mr. Sahlin. Matters have arisen, and are arising, concerning Brandon's wishes and desires to participate in extracurricular activities. Two are immediate:

1. Brandon is signed up to play Little League baseball in both Sandpoint and Rathdrum. This has not been an issue in the past because there was no scheduling conflict; however, this summer, he will be unable to play in two leagues. He has expressed a desire to his mother to play in Rathdrum.

2. Over the years, Brandon has participated in 4-H activities, and has exhibited and won awards at the Kootenai Country Fair in Coeur d'Alene. He desires to continue in the program. Petitioner has refused to cooperate in Brandon's participation because it conflicts with his on-duty parenting time.

The parties have each acknowledged that Brandon is a highly intelligent and expressive boy. He has expressed his desires, and Respondent would like to accommodate his wishes, and believes that it is in Brandon's best interest that the requests set forth in this Motion be granted.

WHEREFORE, Respondent prays for an Order of the Court as follows:

1. Appointing a Guardian ad Litem or Parenting Coordinator be appointed;
2. That Brandon's wishes to participate in Little League and 4-H in Rathdrum be accommodated.

NOTICE IS HEREBY given that Respondent will bring on for Hearing the above Motions on the *THIRD* 3 day of April, 2007 at 11 4 m, before the Honorable Benjamin Simpson.

NOTICE IS FURTHER given that Respondent will examine and cross-examine witnesses and will present documentary evidence at said Hearing.

DATED this 16<sup>th</sup> day of March 2007.

  
\_\_\_\_\_  
RICHARD W. KOCHANSKY  
Attorney for Respondent



CERTIFICATE OF DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing Motion for Appointment of Guardian ad Litem/Parenting Coordinator/Attorney and/or Motion for and Order Relative to Extracurricular Activities and Notice of Hearing was:

- ☒ [ X ] mailed via US mail, postage prepaid
- ☐ [ ] personally delivered
- ☒ [ X ] faxed

this 16<sup>th</sup> day of March 2007 to:

F. William Hausladen  
C/o Mark Jones  
123 S. Third Street, Suite 3  
Sandpoint ID 83864

Fax No. 208.263.0957

  
RICHARD W. KOCHANSKY

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED

2007 MAR 26 PM 2:47

CLERK DISTRICT COURT

*Cathy Vinton*  
DEPUTY

F. William Hausladen, Jr., Petitioner  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Suite 3  
Sandpoint, ID 83864

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
MAGISTRATE DIVISION

FRANK WILLIAM HAUSLADEN, JR. )

Petitioner, )

vs. )

SHARI COLENE KNOCHE )

Respondent, )

CASE NO. CV-00-5967

OBJECTIONS TO  
RESPONDENT'S MOTION  
AND MOTION TO  
CONTINUE

COMES NOW, Petitioner, Frank William Hausladen, Jr., and objects to the Respondent's "Motion for Appointment of Guardian Ad Litem/Parenting Coordinator/Attorney and/or Motion for Order Relative to Extracurricular Activities and Notice of Hearing" on the following grounds:

Respondent's motion is requesting the Court to change/alter/amend the current custody/visitation arrangement. Respondent has failed to file the appropriate documentation required by the Idaho Rules of Civil Procedure and Idaho Law, including but not limited to showing "a material permanent change of circumstances." The record clearly shows that Respondent and her attorney continue to file motion after motion (as with this motion – no legal or factual basis to support said motions) in order to erode Petitioner's parenting time. Respondent is requesting more parenting time and should therefore file the appropriate pleadings instead of camouflaging the request in multiple motions. Petitioner requests the Court to review the motions previously filed by

Respondent over the past five (5) years which back up Petitioner's view. Petitioner further requests that the Court take judicial notice of all of the documents contained in the Kootenai County Clerk's file for this case.

As fully supported by the extensive record in this case, Respondent has continued to violate the plain meaning of "Schedule A" by signing up the minor child for activities that occur primarily during Petitioner's parenting time. Respondent's wrongful behavior has never been corrected by the Court. Since Respondent's wrongful behavior has not been corrected (and occasionally rewarded), her wrongful behavior continues and she is now seeking court approval for such wrongful conduct.

Respondent's motion is "attempting" to present inadmissible evidence as "fact" in her motion. The alleged "desires" of the eight (8) year old child is hearsay and inadmissible. Respondent's "allegations" of the wishes of the eight (8) year old in question is further evidence of Respondent's proactive position to encompass the minor child into any and all disputes rather than shielding the minor child as an respectable parent should do.

Respondent's motion fails to set forth the basis, factually and/or legally for the appointment of a Guardian Ad Litem. Respondent cites Idaho Code Section 16-1628 in his motion which is entitled "Support of Committed Child." Section 16-1628 has absolutely no applicability in this case. In addition, Judge Watson has previously "investigated" this option within the last year and chose not to appoint a Guardian Ad Litem. Petitioner provided information and material related to the many disadvantages of a Guardian Ad Litem to Judge Watson which should be contained in the court file.

The underlying basis for Respondent's attempt to have another Parenting Coordinator and/or Guardian Ad Litem appointed is so she can try to circumvent the current custody order just as she is attempting here.

In addition, Petitioner objects to the appointment of a Parenting Coordinator as it is Petitioner's belief that such action of delegating the Court's duties to a third party violates Petitioner's state and federal constitutional rights, including but not limited to due process and equal protection.

Respondent fails to set forth a basis, factually or legally, to support the appointment of another Parenting Coordinator. Judge Watson has previously "investigated" this issue within the last year and chose not to appoint another Parenting Coordinator. Mr. Kochansky's rendition of the "facts" surrounding the termination of Mr. Sahlin's services as a Parent Coordinator are woefully lacking. Mr. Kochansky has failed to disclose that the "dispute" arose from the Parent Coordinator acting without ANY powers, attempting to issue orders beyond the power of allowed any Parenting Coordinator under Idaho Rule of Civil Procedure 16(l) and I.C. Section 32-717D by "ordering" a judgment to be paid in full. In addition, Mr. Sahlin took part in adversarial legal argument against Petitioner (relating to Petitioner's objections to Mr. Sahlin's Orders/Recommendations) in violation of the Parenting Coordinator's "... primary duty to be impartial . . .", I.R.C.P. 16(l)(7)(B). The basis for this is clearly set forth in the appeal on this matter currently pending before the Hon. Charles W. Hosack and the transcript of several motions involving the parent coordinator and a bar complaint that will be filed shortly. This is not a "dispute" caused by Petitioner, it involves Petitioner asserting reasonable and legal defenses to an "Order to Show Cause" filed by Mr. Sahlin and Mr. Sahlin's misrepresentations while under oath at his hearing for Mr. Sahlin's "Order to Show Cause" motion.

Since this case has began, Respondent has tried almost everything in her power to cause turmoil between her and Petitioner. Respondent's actions eventually caused Petitioner to communicate only in writing since Respondent either refused to talk over the telephone and/or refused to keep her end of the bargain if the communication was oral. Petitioner was further placed in jeopardy based on the untrustworthiness and false accusations (on very serious matters) that Respondent has made throughout this case. Based on Respondent's actions and mental condition (SEE DR. MICHAEL URBAN'S PSYCHOLOGICAL REPORT) there was no reasonable way Petitioner could rely on any oral representations of Respondent with fear of Respondent once again changing her story and alleging Petitioner violated the terms of the custody order. Petitioner, individually and/or through his attorney, attempted to negotiate compromises when

"issues" arose. Respondent and her attorney, more often than not, refused to negotiate and instead filed motions with the Court. Irregardless of Respondent's wrongful conduct and more often than not, the Court ruled in Respondent's favor (even though, in Petitioner's opinion, the facts and/or law did not back up Respondent's position). Petitioner went along with the Court's decisions and followed the orders issued by the Court. Early in the case communication, cooperation and/or co-parenting was impossible since Respondent was rewarded for her wrongful conduct and Petitioner was punished for trying to do the right thing. Petitioner requests that the Court review the volumes of letters sent by Petitioner and/or Petitioner's attorney which are attached to affidavits filed in early 2002 as well as the other documents filed by both parties in this case.

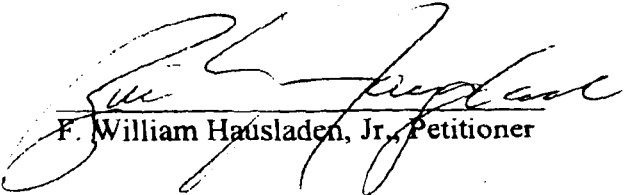
In summary, Respondent's motion(s) (as are many of her prior motions) are legally and factually defective. Petitioner requests the court to impose sanctions pursuant to Idaho Rule of Civil Procedure 11(a)(1). At some point in this litigation, Respondent's attorney must be held responsible for the "paperwork" that he signs and files with the court.

Based on Respondent's conduct and her attorney's conduct throughout this case, it appears that the motions filed (almost immediately after a new judge is appointed) are merely editorialized, overbroad and/or unprovable allegations geared solely to "sway" the trier of fact into their "way of thinking" without the presentation of any evidence.

Respondent and her attorney's ongoing conduct is unethical, immoral and in the worst interest of the child. At some point the court must put a stop to this conduct and require reasonable adult behavior from Respondent and her attorney to abide by the Idaho Rules of Civil Procedure, Idaho statutes and case law and, most importantly, the Idaho Professional Rules of Conduct (specifically: candor to the tribunal).

Petitioner hereby notifies the Court and Respondent of Petitioner's intent to call witnesses, present testimony and evidence, cross examine Respondent's witnesses and to present oral argument at the time of hearing.

Dated this 26 day of MARCH, 2007.

  
F. William Hausladen, Jr., Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26 day of MARCH, 2007, I served a true and correct copy of the foregoing on the individuals listed below, by the following method/s:

Richard Kochansky  
Attorney at Law  
408 E. Sherman Ave., #309  
Coeur d'Alene, ID 83814

☐ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to 765-3867 ~~3887~~

  
F. William Hausladen, Jr.

F. William Hausladen, Jr., Petitioner  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Suite 9  
Sandpoint, ID 83864

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
2007 MAR 30 PM 2:39  
DISTRICT COURT  
Shirley Robinson  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
DISTRICT COURT

FRANK WILLIAM HAUSLADEN, JR.,	)	
	)	
Petitioner/Appellant,	)	CASE NO. CV-00-5967
	)	
vs.	)	
	)	
SHARI COLENE KNOCHE,	)	
	)	
Respondent.	)	
	)	
JOHN SAHLIN (former Parent Coord.)	)	
Judgment Creditor/	)	
Respondent	)	
	)	

**APPELLANT'S BRIEF**

Appeal from the Magistrate Court of the First Judicial District for Kootenai County

Honorable Barry Watson, Magistrate Judge Presiding

## INTRODUCTION

The transcript that was ordered for this appeal is composed of all or a portion of three (3) separate hearings related to the Parenting Coordinator in this case. Since the transcript is 185 pages long and contains a majority of the facts related to the issues herein, a specific "FACTS" section will not be provided. In addition, the Orders/Recommendations filed by the former Parent Coordinator<sup>1</sup> are contained in the clerk's file.

The Petitioner/Appellant/Father will be referred to as Petitioner in this brief.

### Issues:

- (1) John Sahlin, the court-appointed Parent Coordinator took part in actions in violation of: the court's order of appointment, I.R.C.P. 16(1) and/or Idaho Code Section 32-717D.
- (2) The trial court erred in not upholding Petitioner's objections to the motion for order to show cause filed by the court-appointed former Parenting Coordinator, John Sahlin.
- (3) The trial court erred by not disqualifying itself from hearing the court-appointed former Parenting Coordinator's motion for order to show cause (motion brought by court and denied).
- (4) The trial court committed errors at the court-appointed former Parenting Coordinator's motion for order to show cause which rise to the level of an "abuse of discretion."

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<sup>1</sup> One Order/Recommendation was filed 9/29/05 and a second was filed on or about 10/15/05.



**ISSUE: The Parenting Coordinator Had No Power to Act (Exceeded His Mandate,  
Violated I.R.C.P. 16(l) and/or Violated I.C. Section 32-717D)**

**No Court Order Sets Forth Powers of John Sahlin as Parenting Coordinator**

The order that appointed the parenting coordinator fails to set forth any powers or procedures for the parenting coordinator:

**5. The Court further determines that it would be in the best interest of BRANDON that a parenting coordinator be appointed in this particular matter. Pursuant to Idaho Code 32-717(d), all expenses associated with the parenting coordinator shall be split equally. Pursuant to agreement, the Court hereby appoints John Sahlin as the parenting coordinator in this particular matter.<sup>2</sup>**

No subsequent orders of the Court define or set forth the powers of the Parenting Coordinator. Therefore, the Parenting Coordinator, Mr. Sahlin, was appointed to a position by the trial court but was not “empowered” with any duties. Most importantly, Mr. Sahlin admitted that he had no powers from the Court.<sup>3</sup>

Although the testimony of Mr. Sahlin at his Order to Show Cause hearing on June 5, 2006, was most often “I don’t recall” to most issues, his memory appeared to be very good at a hearing on December 7, 2005, about the same issues. In fact, Mr. Sahlin stated:

**. . . under my order of appointment there’s no authority granted to me, it just says John Sahlin is the parenting coordinator and the costs split 50/50. So I really don’t have authority, specific authority, either under the rule or under the order of appointment to make any - - even a recommendation about<sup>4</sup> the satisfaction of this judgment.**

**So then the question becomes did the parties either tacitly or explicitly give me the authority to make that decision? And whether**

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<sup>2</sup> ORDER MODIFYING CUSTODY entered February 2, 2005, page 2.

<sup>3</sup> Transcript: Motion Hearings, page 8, lines 6 – 19 which is quoted in the following paragraph and “All the order says, your Honor, is that I was appointed Parenting Coordinator and the costs are split 50/50.” Transcript, page 5, lines 22 – 24.

<sup>4</sup> The Transcript: Motion Hearings contained a typographical error and “without” was corrected to “about” pursuant to Judge Watson’s order to correct the transcript.

they did or didn't, if I'm not given the authority, can I even make that decision anyway? And that's a purely legal argument so it doesn't require my testimony.<sup>5</sup>

All the order says, your Honor, is that I was appointed Parenting Coordinator and the costs are split 50/50.<sup>6</sup>

Mr. Sahlin, based on the representations at the December 7, 2007, hearing, including those cited above, represented to the Court that he no actual/specific powers as Parenting Coordinator.<sup>7</sup> This conclusion is further "backed up" by Mr. Sahlin's requests that the Court issue an order: "... specifically outlining the scope of my duties ..."<sup>8</sup>; "... if I have the scope and ability to deal with. ..."<sup>9</sup>; "... If the Court would give me more direction, more authority, more specific authority. ..."<sup>10</sup> and the discussion relating to the drafting of an order setting forth the powers of the Parenting Coordinator between the Court, the Parenting Coordinator, Mr. Kochansky and Petitioner.<sup>11</sup>

Idaho Law Requires That All Powers of a Parenting Coordinator

Be Set Forth In An Order From The Court

The reference to I.C. Section 32-717(d) in the order of appointment above is most likely a typographical error by Richard Kochansky which was not corrected by Judge Watson prior to signing the order. I.C. Section 32-717D, not 32-717(d), relates to the parenting coordinator. I.C. Section 32-717D(1) requires:

**"... the court may order the appointment of a parenting coordinator to perform such duties as authorized by the court, consistent with any controlling judgment or order of a court relating to the child or**

<sup>5</sup> Transcript: Motion Hearings, page 8, lines 6 – 19.

<sup>6</sup> Transcript: Motion Hearings, Page 5, lines 22 – 24.

<sup>7</sup> Other than powers that may have been conferred upon him by Petitioner and/or Respondent which is inferred from his question/statement on page 8, lines 14 – 19.

<sup>8</sup> Transcript: Motion Hearings, Page 20, lines 22 – 23.

<sup>9</sup> Transcript: Motion Hearings, Page 21, lines 4 – 5.

<sup>10</sup> Transcript: Motion Hearings, Page 21, lines 22 – 23.

<sup>11</sup> Transcript: Motion Hearings, Pages 22 – 30.

children of the parties, and as set forth within the order of appointment.<sup>12</sup>

I.C. Section 32-717D clearly requires that an order from the court set forth any and all powers of the parenting coordinator. If the order fails to set forth the powers of the parenting coordinator, the parenting coordinator has no powers. The Idaho code sets forth no “powers by default” that automatically vest in a parenting coordinator if the order of appointment is lacking.

In a recent “family law” decision, the Idaho Supreme Court investigated how the meaning of a statute is to be determined:

**The interpretation of a statute is a question of law over which this Court exercises free review. (cite omitted) The Court must give every word, clause and sentence effect, if possible. (cite omitted) This Court must also construe a statute to give effect to the intent of the legislature. (cite omitted) The legislature’s intent is ascertained from the statutory language and the Court may seek edification from the statute’s legislative history and historical content at enactment. (cite omitted) In construing a statute, the Supreme Court may examine the language used, reasonableness of the proposed interpretations, and the policy behind the statutes. Webb v. Webb, 2006 Opinion No. 106 pages 4-5 (11/29/06).**

The Idaho Supreme Court also examined this issue in MATTER OF PERMIT NO. 36-7200, 121 Idaho 819, 822-823 (1992):

**It is a basic rule of statutory construction that, unless the result is palpably absurd, we must assume that the legislature means what is clearly stated in the statute. Sherwood v. Carter, 119 Idaho 246, 254, 805 P.2d 452, 460 (1991); Miller v. State, 110 Idaho 298, 715 P.2d 968 (1986); State Dep’t of Law Enforcement v. One 1955 Willys Jeep, 100 Idaho 150, 595 P.2d 299 (1979). It is also well established that statutes must be interpreted to mean what the legislature intended the statute to mean, Sherwood v. Carter, 119 Idaho 246, 254, 805 P.2d 452, 460 (1991); Miller v. State, 110 Idaho 298, 715 P.2d 968 (1986); Carpenter v. Twin Falls County, 107 Idaho 575, 691 P.2d 1190 (1984), and the statute**

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<sup>12</sup> I.C. Section 32-717D(1).

**must be construed as a whole.** Sherwood v. Carter, 119 Idaho 246, 254, 805 P.2d 452, 460 (1991); Leliefeld v. Johnson, 104 Idaho 357, 659 P.2d 111 (1983); Sherwood & Roberts Inc. v. Riplinger, 103 Idaho 535, 650 P.2d 677 (1982). **Statutory interpretation always begins with an examination of the literal words of the statute.** Local 1494 of the Int'l Ass'n of Firefighters v. City of Coeur d'Alene, 99 Idaho 630, 586 P.2d 1346 (1978). **In so doing, every word, clause and sentence should be given effect, if possible.** Wright v. Willer, 111 Idaho 474, 725 P.2d 179 (1986); University of Utah Hosp. & Medical Center v. Bethke, 101 Idaho 245, 611 P.2d 1030 (1980). **The clearly expressed intent of the legislature must be given effect and there is no occasion for construction where the language of a statute is unambiguous.** Sherwood v. Carter, 119 Idaho 246, 254, 805 P.2d 452, 460 (1991); Ottesen ex rel. Edwards v. Board of Comr's of Madison County, 107 Idaho 1099, 695 P.2d 1238 (1985). **Finally, when construing a statute, its words must be given their plain, usual and ordinary meaning.** Sherwood v. Carter, 119 Idaho 246, 254, 805 P.2d 452, 460 (1991); Walker v. Hensley Trucking, 107 Idaho 572, 691 P.2d 1187 (1984).

The Supreme Court further reasoned that a litigant cannot invent or “makeup” an ambiguity that is not present – common sense prevails:

**However, ambiguity is not established merely because different possible interpretations are presented to a court. If this were the case then all statutes that are the subject of litigation could be considered ambiguous. As the district court stated:**

**... a statute is not ambiguous merely because an astute mind can devise more than one interpretation of it.**

**The plain, obvious, and rational meaning of a statute is always to be preferred to any curious, narrow, hidden sense that nothing but the exigency of a hard case and the ingenuity and study of an acute and powerful intellect would discover.**

**[The] Rule of construction to consider object and purpose has no place when words of [the] act leave no doubt.** John Hancock Mutual Life Ins. Co. v. Haworth, 68 Idaho 185, 192, 191 P.2d 359 (1948).<sup>13</sup>

“Finally, when construing a statute, its words must be given their plain, usual and ordinary meaning.” Sherwood v. Carter, 119 Idaho 246, 254, 805 P.2d 452, 460 (1991).

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<sup>13</sup> MATTER OF PERMIT NO. 36-7200 at 823.

The testimony of Mr. Sahlin at the June 5, 2006, hearing appears<sup>14</sup> to suggest that he, as a court-appointed Parenting Coordinator, is automatically vested with certain powers<sup>15</sup> under I.C. Section 32-717D and/or I.R.C.P. 16(l) or he had no powers and the powers exercised by him were authorized by the parties.<sup>16</sup> In the case at hand, I.C. Section 32-717D is unambiguous and requires that the order of appointment (or some order from the trial court) **MUST** state/set forth the powers of the Parenting Coordinator. If the court has not set forth the powers/duties of the Parenting Coordinator, the Parenting Coordinator has no powers/duties. The “plain, usual and ordinary meaning”<sup>17</sup> of I.C. Section 32-717D requires the granting of any powers/duties to a court-appointed Parenting Coordinator to be in the form of a duly exercised written order from the trial court/presiding court.

I.R.C.P. 16(l) reiterates much of I.C. Code Section 32-717D and further explains the concepts involving the parenting coordinator that are not specifically set forth in I.C. Section 32-717D. The wording of I.R.C.P. 16(l) mirrors I.C. Section 32-717D(1) requiring that the order of appointment set forth the duties/powers of the Parenting Coordinator<sup>18</sup>. I.R.C.P. 16(l)(8)(A) also requires<sup>19</sup> the procedure to be followed by

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<sup>14</sup> It is difficult to determine with 100% certainty since Mr. Sahlin’s testimony is comprised mostly of “I don’t recall” and his “answers” to questions under oath are inconsistent and/or fail to answer the question asked (are evasive).

<sup>15</sup> At several points in his testimony under oath at the June 5, 2006, hearing, Mr. Sahlin attempts to “argue” that he was exercising powers inferred by Rule 16(l) and I.C. Section 32-717D. However, as the transcript shows, Mr. Sahlin never explains his reasoning for this contention and purposely avoids any specifics in his “explanation.”

<sup>16</sup> “Q. I believe we had a phone conversation and it was your opinion that by our actions we authorized you to do all these actions in this case even though the order didn’t specify any powers, is that correct?

A. That’s correct.” Transcript: Motion Hearings, Page 109, lines 5 – 8.

<sup>17</sup> Sherwood v. Carter, 119 Idaho 246, 254 (1991).

<sup>18</sup> For example, I.R.C.P. 16(l)(5)(B) states: “By way of illustration and not limitation the order **may** authorize the Parenting Coordinator to determine such matters as: . . .” (emphasis added); I.R.C.P. 16(l)(5)(C) states: “By way of illustration and not limitation the order may authorize the Parenting Coordinator to make recommendations to the court on such matters as: . . .”

<sup>19</sup> The order appointing the Parenting Coordinator **shall specify** the procedure. . . (emphasis added)

the Parenting Coordinator to be included in the order. Obviously, this essential element is also missing from the order of appointment authored by Mr. Kochansky and signed by Judge Watson.<sup>20</sup> In the absence of an order from the presiding court that meets the requirements of I.C. Section 32-717D and/or I.R.C.P. 16(l), the only entity that has authority to make decisions regarding the case at hand is the trial court. In other words, the “plain, usual and ordinary meaning”<sup>21</sup> of I.C. Section 32-717D and I.R.C.P. 16(l) require any and all powers of the Parenting Coordinator to be set forth in an order from the Court.

I.R.C.P. 16(l) allows for a Parenting Coordinator to determine<sup>22</sup> “any other issues submitted for immediate determination by agreement of the parties.”<sup>23</sup> However, the introductory language of Rule 16(l)(5)(B) states: “By way of illustration and not limitation the order may authorize the Parenting Coordinator to determine such matters as: . . .” (emphasis added). When reading the rule as it is intended, the Parenting Coordinator can rule on “other issues submitted for immediate determination by agreement of the parties”<sup>24</sup> if that power is set forth in the Court’s order. This power is not provided for in any order, therefore, Mr. Sahlin’s actions based on this theory are ultra virus.

In addition, the illustrated powers that a Parenting Coordinator may be granted under an order under Rule 16(l)(5)(B) appear to be on issues requiring urgency and a quick and/or concise “ruling” since “determinations” by the Parenting Coordinator under

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<sup>20</sup> Judge Watson, in his ruling on this matter, agrees that the order has “shortcomings” – see Transcript pages 156 line 17 – Page 157 line 8.

<sup>21</sup> Sherwood v. Carter, 119 Idaho 246, 254 (1991).

<sup>22</sup> Based on the wording of the rule, “determine” (when coupled with subsection (8)(A) or 16(l)) appears to mean in a sense, “order” the parties to do something and said “order” becomes effective when communicated to the parties.

<sup>23</sup> I.R.C.P. 16(l)(5)(C)(ix.).

<sup>24</sup> I.R.C.P. 16(l)(5)(C)(ix.).

this subsection become “effective when communicated to the parties.”<sup>25</sup> Mr. Sahlin filed two (2) written “Orders/Recommendations” which, under the wording of the rule, would have to be within the purview of Rule 16(l)(5)(C): a “recommendation” which would become “effective” fourteen (14) days after submission to the court (under I.R.C.P.16(l)(8)(A)). Mr. Sahlin is mixing different components of Rule 16(l) in order to “backup” his excuse for exercising powers which he never had. No matter how you slice it, Mr. Sahlin had no powers to act. Mr. Sahlin cannot now say that it is a simple misinterpretation of the rule and or statute at issue – he had the opportunity to explain his “view/theory” when he was under oath at the June 5, 2006 hearing. Mr. Sahlin purposefully evaded questions that asked for his explanation in this area. In addition, Mr. Sahlin stated that he either helped or assisted in writing Rule 16(l)<sup>26</sup> which would mean he should be held at a higher standard than other Parent Coordinators.

Even though Rule 16(l) requires that a Parenting Coordinator has to be “empowered” with the authority in a court’s order to determine “. . . other issues submitted for immediate determination by **agreement of the parties**”<sup>27</sup> (emphasis added). As set forth above, Mr. Sahlin appears to claim that he received “permission”<sup>28</sup> from the parties to rule on certain issues. The plain meaning of the rule also requires “agreement of the parties” (both parties) which was not proven at the hearing on this matter. In addition, it cannot be proven because Mr. Sahlin was not “empowered” to issue Orders/Recommendations outside the authority granted by the court. In addition,

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<sup>25</sup> I.R.C.P. 16(l)(8)(A).

<sup>26</sup> Transcript: Motion Hearings, Page 117, line 15 and Page 5, lines 15 – 16.

<sup>27</sup> I.R.C.P. 16(l)(5)(B)(ix.).

<sup>28</sup> Mr. Sahlin contends that the parties agreed to have him settle the disputes/issues that he ruled upon. At the hearing on June 5, 2006, he appeared to purposely evade specifics regarding this “permission.” When asked if he had anything in writing to evidence said agreement(s) he finally agreed that he did not have anything in writing authorizing him to act outside the scope of his authority (Transcript, Page 124, lines 23 – 25).

Mr. Sahlin had no proof/evidence (even though he had what appeared to be his “file” for this case with him while he testified) of any kind<sup>29</sup> to show any “agreement” by the parties to have Mr. Sahlin rule on an issue that he did not already have the power to (or “appeared to” have the power to) do so. Mr. Sahlin failed to disclose his “lack of authority” and acted as if he was “empowered” to perform all of the acts that he did in this case.

Even though the following is moot since Rule 16(l) requires a court order to specify that the Parenting Coordinator can solve issues agreed by the parties, it will demonstrate just how ridiculous Mr. Sahlin’s story is that he was empowered by agreement of the parties: Another component of having an “agreement” is an understanding by Petitioner and Respondent (the parties involved here) that the Parenting Coordinator is not already empowered to take the actions that he is. Parties in this situation can not “tacitly”<sup>30</sup> agree to expanding a Parenting Coordinator’s powers. Parties can only “expressly”<sup>31</sup> agree under these circumstances if the Parenting Coordinator clearly discloses that he is not empowered to perform the action in question and is only doing so because both parties have agreed to allow the Parenting Coordinator to have additional powers. Mr. Sahlin did not prove this at the Order to Show Cause hearing and cannot prove this (since it did not occur). Mr. Sahlin merely acted and exercised powers as if he lawfully possessed said powers. In essence, Mr. Sahlin was committing fraud under the guise of a court-appointed official and is arguing that he should be paid for time spent on the case since Petitioner did not discover the fraud in time. In other words, Mr.

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<sup>29</sup> Letters, emails, notes, agreements or anything that

<sup>30</sup> Transcript: Motion Hearings, Page 8, line 15.

<sup>31</sup> Transcript: Motion Hearings, Page 8, line 15.



Sahlin's theory is that he is entitled to payment for services up to the point where the fraud is discovered. Mr. Sahlin's "theory" simply makes no sense in law or equity.

Whatever the excuse may be for leaving this vital information out of the order,<sup>32</sup> if Mr. Sahlin would have reviewed the order of appointment prior to exercising powers in this case, he would have known that he had no powers. If Mr. Sahlin would have disclosed this problem, the solution would have been simple: draft an order, have the parties stipulate to said order and have the presiding judge sign the order. Instead, it appears that Mr. Sahlin took actions before getting a copy of the order,<sup>33</sup> failed to disclose this vital detail to Petitioner and continue to "rule" on issues as if he was legally empowered to do so. Mr. Sahlin provided no evidence to the contrary at the hearing even though he was asked numerous questions asking specifics about why he believed he had any powers to act.

The problem may be that Mr. Sahlin did not even bother to review the court order until late August, 2005<sup>34</sup>, several months after he started exercising powers in this case. In fact, after Mr. Sahlin knew or should have known that he lacked any powers as the parenting coordinator, he attempted acts which are outside the scope of any parenting coordinator's powers.<sup>35</sup> I.R.C.P. 16(l)(7)(D) states: "[t]he Parenting Coordinator may not make any modification to any order, judgment or decree; however the Parenting Coordinator may allow the parties to make minor temporary departures from a parenting

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<sup>32</sup> Richard Kochansky, the author of the order and/or Judge Watson for signing the order.

<sup>33</sup> Based on Mr. Sahlin's telephone conversations with Petitioner and Mr. Sahlin's evasive answering techniques at the June 5, 2006, hearing – see Transcript: Motion Hearings, Page 93 lines 22 – 25, Page 94 – 95, lines 1 – 9. NOTE: MR. SAHLIN HAS NO DOUBT THAT HE RECEIVED A COPY OF THE ORDER BEFORE TAKING ANY ACTION IN THE CASE, BUT HAS REALLY NO RECOLLECTION OF ANY OTHER FACTS ON THAT ISSUE.

<sup>34</sup> The approximate date on Mr. Sahlin's billing statement that shows he reviewed the court file relating to this case.

<sup>35</sup> Order/Recommendation of Parenting Coordinator dated November 29, 2005 (should be September 29, 2005).

plan if authorized by the court to do so. . .” The order/recommendation of the Parenting Coordinator dated November 29, 2005, (should be September 29, 2005) deemed an outstanding judgment against Respondent to be paid which is clearly in violation of I.R.C.P. 16(l)(7)(D). In addition, the order/recommendation of the Parenting Coordinator also took five (5) days of parenting time from the Petitioner which is also clearly in violation of Rule 16(l) since the Parenting Coordinator was not authorized by the Court to make such decisions. Mr. Sahlin did not just “cross over the line” on accident, it appears that he knowingly and willingly tried to defraud Petitioner under the guise of his court appointment.

If the conduct of Mr. Sahlin described above was not already unconscionable, he took the outrageous step to engage in adversarial legal argument against Petitioner’s “Objection/Appeal RE: Parenting Coordinator Order/Recommendation.” On December 7, 2005, at a hearing in which the Parenting Coordinator was subpoenaed as a witness for Petitioner, the Parenting Coordinator argued that Petitioner’s objections to the Parenting Coordinator’s recommendations/orders were not timely and were therefore invalid. The Parenting Coordinator’s actions at the December 7, 2005, hearing clearly violate I.R.C.P. 16(l)(7)(B) which states: “[t]he Parenting Coordinator has a primary duty to be impartial.” This shows that Mr. Sahlin was not an impartial problem solver but a passionate advocate for the Respondent, emotionally tied to her views and desires.

#### JOHN SAHLIN’S CONDUCT AT JUNE 5, 2006 HEARING

A review of the transcript of the June 5, 2006, hearing (an “Order to Show Cause” motion filed by Mr. Sahlin against Petitioner) illustrates Mr. Sahlin’s “testimony” related

to the matters discussed in this brief. Mr. Sahlin's memory appears to be very good on facts related to him entitled to payment from Petitioner. Mr. Sahlin's testimony is very poor and/or nonexistent<sup>36</sup> on facts related to acting outside the scope of his authority or evidence that would help Petitioner in any way. When compared with the statements Mr. Sahlin made to the trial court at the December 7, 2005, hearing, it appears Mr. Sahlin either has a serious mental condition which entirely deletes his memory of the recent past or he was purposely misleading the trial court at the June 5, 2006 hearing. Mr. Sahlin seems to portray himself as an "expert" of the "workings" of Rule 16(l) at the December 7, 2005, hearing, but exhibited very limited knowledge during his testimony at the June 5, 2006 hearing. All in all, Mr. Sahlin appears to be purposefully misleading the trial court at the June 5, 2006, hearing in an attempt to preclude evidence that may disprove his claim and assist Petitioner in his defense. Based on Mr. Sahlin's testimony and actions, he should have received sanctions from the trial court instead of a judgment. No reasonable "trier of fact" would find Mr. Sahlin credible as a witness. Therefore, any weight given to Mr. Sahlin's testimony and any "evidence" provided by Mr. Sahlin, including the documentary evidence, relied upon by the trial court was an abuse of discretion.

In short, after close examination of the transcript from the hearing, it is very evident that Mr. Sahlin's conduct was bad. Taking into consideration that he is a licensed, practicing attorney with 20+ years of experience, his conduct is simply outrageous. Taking into consideration that he is also an "extension of the court" by reason of his appointment as Parenting Coordinator, his conduct is beyond reproach. In

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<sup>36</sup> "I don't recall"

fact, to use a term coined from a Bonner County case that I co-counseled with Steve Verby: Mr. Sahlin's actions in this case were "**Ruen-esque**."

#### TRIAL COURT'S CONDUCT AT JUNE 5, 2006 HEARING

Mr. Sahlin filed an "Order to Show Cause" motion. At the time of the hearing, Petitioner timely objected on legal and procedural grounds that said motion was deficient.<sup>37</sup> The trial court, in essence, ignored the objections and proceeded without overruling or sustaining the objections. The trial court "reformed" Mr. Sahlin's "Order to Show Cause" motion and reformed it as a motion to determine fees over the objections of Petitioner. The former Parenting Coordinator filed an "Order to Show Cause" motion which was legally and procedurally deficient, a motion that appears he has no standing to file as a "nonparty" to the case, and the trial court "resurrects" the documents as a motion to determine fees. The conduct of the trial court is clearly outside of Idaho Law and the Idaho Rules of Civil Procedure and equates to an "abuse of discretion".

The trial court also started to "assist"<sup>38</sup> Mr. Sahlin with proving his case which Petitioner objected to.<sup>39</sup> The trial court asked the witness and moving party on the stand: (1) "why you're here," (2) "what your request is," and (3) "what information you have to substantiate that request."<sup>40</sup> In Petitioner's view, the trial court was providing legal

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<sup>37</sup> Transcript: Motion Hearings, Page 65, line 4 – Page 69, line 6.

<sup>38</sup> In Petitioner's opinion it appeared that the trial court was overstepping its bounds and attempting to help the court-appointed Parenting Coordinator (who was acting Pro Se and is a practicing attorney – someone who should be completely capable of practicing law on his own).

<sup>39</sup> Transcript: Motion Hearings, Page 70, line 9 – Page 70, line 5.

<sup>40</sup> The trial court later stated: "I'm not - - all's I did is ask him his name and his address."<sup>40</sup> However, the transcript does not lie – review the questions by the trial court to Mr. Sahlin on lines 19 – 11 on page 70 of the transcript. At the time of the hearing and after reviewing the transcript, it appears that the trial court was assisting Mr. Sahlin with proving his case. In addition, towards the end of Mr. Sahlin's testimony, the Court asked another question of Mr. Sahlin that appears only to assist the court-appointed Parenting Coordinator to meet his burden of proof. (See Transcript, page 152, lines 16 – 23).

assistance to the court-appointed Parenting Coordinator (who is a licensed, practicing attorney) so Petitioner objected. The trial court responded:

**The Court: Do you - - do you have a motion to disqualify me?  
I - - I'm getting real frustrated, Mr. Hausladen with this case.<sup>41</sup>**

The Petitioner responded by stating that as to the particular issue in front of the court, he would feel more comfortable if another magistrate heard the motion<sup>42</sup> (since the judge presiding over the hearing also appointed the Parenting Coordinator). The trial court then denied what seemed to be its own motion for disqualification and reasoned:

**The Court: Well, as frustrated as I am with this case, I - - I still think that I can uh, be fair and impartial in hearing it. I don't think it would be fair to dump this case on another judge at this point.<sup>43</sup>**

From a reasonable, common sense perspective, how can an individual be fair and impartial under these circumstances? The trial court was obviously frustrated with what appeared to be perfectly legal objections raised by the Petitioner. In addition, from Petitioner's perspective, there appears to be a conflict of interest whereas the judge that appointed Mr. Sahlin, refused to make a specific factual and legal finding that Mr. Sahlin violated the order of appointment and Idaho Law (committed ultra vires acts)<sup>44</sup> even though the evidence clearly shows that he did. Though Mr. Sahlin is a practicing attorney, the Court appears to be assisting Mr. Sahlin with proving his case against Petitioner. On its face, as reflected in the transcript, the trial court's conduct equates with an "abuse of discretion."

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<sup>41</sup> Transcript: Motion Hearings, Page 71, lines 3 – 5.

<sup>42</sup> Transcript: Motion Hearings, Page 14, lines 14 – 16.

<sup>43</sup> Transcript: Motion Hearings, Page 73, lines 1 – 4.

<sup>44</sup> See Transcript: Motion Hearings: Page 61, lines 1 – 25.

As clearly set forth in the transcript,<sup>45</sup> the trial court refused to make a specific factual finding and a specific legal ruling as requested by Petitioner's motion to remove the Parenting Coordinator for cause (and denied Petitioner's motion for reconsideration on said issue). Although the evidence needed to make the decision was contained in the case file (and Petitioner specifically requested the trial court to take judicial notice of said evidence), the trial court refused:

**Mr. Hausladen:** Uh, I just got a question on that because I - - I specifically asked for a legal and factual finding on that uh. I don't think the Court acknowledged the fact that Mr. Sahlin came in and uh, argued legal argument against my uh - - my motion on the 7<sup>th</sup> of December. Again, I see this as a uh, issue that's gonna come up later on where I'm the bad guy filing motions and I don't have any legal basis for what I file, I've just done this to tie up the legal system. That's not the case. That's why I'm trying to protect the record and show the actual legal analysis and factual finding on what Mr. Sahlin did. It's nothing against Mr. Sahlin personally, it has to do with uh - -

**The Court:** Well, I'm not willing to make a finding at this time with what I have that Mr. Sahlin exceeded uh, the lawful authority of any orders that he had.

**Mr. Hausladen:** Not even the fact that he change - - tried to change a judgment?

**The Court:** No, I'm not - - I'm not - -

**Mr. Hausladen:** Okay.

**The Court:** - - willing to enter a finding on that. I'm sorry.<sup>46</sup>

Although the Petitioner subpoenaed Mr. Sahlin to show up for the hearing, the Court supplied sufficient "leverage" against Petitioner to dissuade him from calling Mr. Sahlin to the stand<sup>47</sup> (See Transcript – see also the audio tape of the hearing which illustrates the "tone" of the Court). Although the trial court "dissuaded" the Petitioner from calling Mr. Sahlin as a witness (and allowing Petitioner from presenting portions of Mr. Sahlin's file for the case into evidence), the trial court freely elicited information

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<sup>45</sup> See the portion of the transcript relating to the December 7, 2005, hearing: Pages 1 – 38.

<sup>46</sup> Transcript: Motion Hearings, Page 60 – 61.

<sup>47</sup> Although it is not shown in the transcript, Judge Watson's mannerisms and tone of voice at the hearing send the message: "DO NOT CALL HIM AS A WITNESS OR YOU WILL PAY."

from Mr. Sahlin. In addition, because the trial court reasoned that the testimony of Mr. Sahlin on the facts would/could be viewed as “biased”<sup>48</sup> he should not be called as a witness. The elicitation of this information by the trial court somehow did not do this. Most importantly, Mr. Sahlin took part in legal argument against Petitioner’s objections to the Orders/Recommendations issued by Mr. Sahlin.<sup>49</sup> Even though Petitioner objected to Mr. Sahlin’s conduct, the trial court overruled the objection and allowed Mr. Sahlin to continue with conduct that can only be viewed as adversarial, not unbiased.

#### TRIAL COURT’S CONDUCT IN OTHER PROCEEDINGS

Petitioner currently has an appeal in the Idaho Court of Appeals following the trial court’s refusal to award attorney fees after granting a “directed verdict” in favor of Petitioner relating to a trial on Respondent’s Petition for Change of Custody. A brief was filed by Petitioner in the District Court and a brief and reply brief have been filed with the Court of Appeals. Said briefs contain additional information/facts that suggest that the trial court has not been fair and impartial in other areas of this case. In addition, Judge Watson recently withdrew from this case which may be related to the recent appeals filed by Petitioner.

#### EQUITABLE REMEDIES

As stated above, the former Parenting Coordinator had no powers to execute in this case. If the Parenting Coordinator violated the terms of an order and/or Idaho Law and/or the Idaho Rules of Civil Procedure, he does not come to court with “clean hands”

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<sup>48</sup> The trial court seemed to say that calling Mr. Sahlin as a witness to elicit factual testimony would somehow effect his independence or “unbiased” position as a Parent Coordinator.

<sup>49</sup> Transcript: Motion Hearings, Page 6 – 7.

and is not entitled to equitable remedies. Judge Watson's ruling seems to state that<sup>50</sup> it is not fair that Mr. Sahlin performed work and does not get paid. It appears that Judge Watson is using an equitable remedy as the basis for the judgment in this case. Although the evidence shows many bad acts by Mr. Sahlin (no authority to act, etc.), Mr. Sahlin is purposefully evasive on the stand and appears to be withholding information/evidence and much of the time charged by Mr. Sahlin came about because Mr. Sahlin performed ultra vires acts, the court holds that Mr. Sahlin is entitled for payment for all time that he billed for. In making this holding, Judge Watson seems to stand for the proposition that an individual appointed by the court is immune from following the Idaho Law and the Idaho Rules of Civil Procedure. No equitable remedy backs up this ruling.

In essence, Judge Watson's decision seems to stand for the proposition that all wrongful conduct of the court-appointed Parent Coordinator is to be disregarded. Even if the court-appointed Parenting Coordinator had no powers, violated Idaho Law, violated the Idaho Rules of Civil Procedure, that is to be ignored. Judge Watson seems to rule that the only important fact is whether the Parenting Coordinator undertook "efforts to try to assist the parties in resolving some of their disputes."<sup>51</sup> In addition, Judge Watson stated: "But we're not paying him for being successful, we're paying him for his time and his efforts."<sup>52</sup> It appears that Judge Watson agrees that the order "was lacking" and the order of appointment (or any order) did not specify the powers of the Parenting Coordinator,<sup>53</sup> (the Parenting Coordinator had no powers to act) the Parenting Coordinator is still entitled to payment. In essence, Judge Watson ignored a majority of

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<sup>50</sup> Transcript: Motion Hearings, Page 157, lines 9 – 16.

<sup>51</sup> Transcript: Motion Hearings, Page 157, lines 20 – 21.

<sup>52</sup> Transcript: Motion Hearings, Page 157, lines 22 -23.

<sup>53</sup> Transcript: Motion Hearings, Page 157, lines 18-19.



the evidence, ignored that fact that Mr. Sahlin's testimony was very questionable, ignored the law and essentially ruled that the Parenting Coordinator is entitled to payment no matter what. This ruling and reasoning is clearly an "abuse of discretion." To say otherwise is to rule that a magistrate is allowed, in his/her sole discretion, to follow the law or not follow the law. To say otherwise is to rule that a magistrate, in his/her sole discretion, can follow the Idaho Rules of Civil Procedure or not follow them. Is a trial judge empowered with the ability to individually overrule the Idaho legislature at his or her own whim? Is a trial judge allowed to disregard all facts, statutes and/or rules that may contradict the predetermined outcome of a hearing?<sup>54</sup> Something is definitely wrong with this decision by the trial court.

### **CONCLUSION – RELIEF SOUGHT**

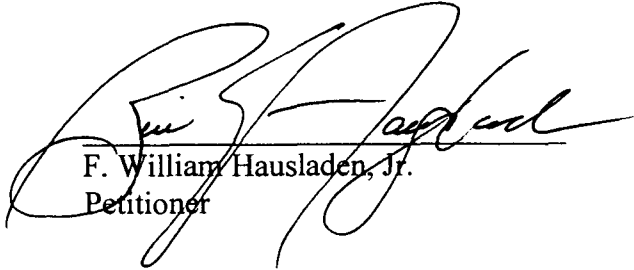
The trial court's decision to award the former court-appointed Parenting Coordinator was in contradiction of Idaho law and the Idaho Rules of Civil Procedure and was an abuse of discretion. The former Parenting Coordinator took part in ultra vires acts that violated the trial court's order of appointment, Idaho Code Section 32-717D and/or I.R.C.P. 16(1). The Parenting Coordinator must refund any moneys paid by Petitioner since the Parenting Coordinator could not exercise any powers (and therefore could not bill for any "services" provided). The order/judgment in favor of John Sahlin against Petitioner be stricken/deleted/voided.

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<sup>54</sup> See Sanchez v. State, 32266 (Idaho 2006) in Justice Eismann's concurring opinion where he states: **Although this Court has the power to misconstrue statutes, it does not have the power to rewrite them. Doing so is simply a blatant abuse of power and a violation of separation of powers. When confronted with such examples of judicial misconduct, this Court must have the integrity to overrule them.**

Petitioner is entitled to any and all costs<sup>55</sup> allowed a pro se litigant under Idaho law pursuant to I.C. Section 12-121 and/or I.C. Section 12-120 on this appeal.

Dated this 29<sup>th</sup> day of March, 2007.



F. William Hausladen, Jr.  
Petitioner

---

<sup>55</sup> Principally the cost of ordering the transcript which was around \$650.00.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>TH</sup> day of MARCH, 2007, I served a true and correct copy of the foregoing on the individuals listed below, by the following method/s:

Richard Kochansky  
Attorney at Law  
408 E. Sherman Ave., #309  
Coeur d'Alene, ID 83814

- ☒ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

John Sahlin  
P.O. Box 194  
Coeur d'Alene, Idaho 83816

- ☒ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

  
F. William Hausladen, Jr.  
Petitioner Appellant

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED

007 592 -6 PM 4:51

CLERK DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
MAGISTRATE DIVISION

FRANK WILLIAM HAUSLADEN, JR. )

Petitioner, )

vs. )

SHARI COLENE KNOCHE )

Respondent, )

CASE NO. CV-00-5967

ORDER

RE: RESPONDENT'S  
MOTIONS HEARD ON  
4/3/07

THE COURT HAVING HEARD Respondent's motion(s) entitled "MOTION FOR APPOINTMENT OF GUARDIAN AD LITEM/PARENTING COORDINATOR/ATTORNEY AND/OR MOTION FOR ORDER RELATIVE TO EXTRACURRICULAR ACTIVITIES" on April 3, 2007, with Petitioner, F. William Hausladen, Jr., pro se, being present and Respondent, Shari Knoche, being present and represented by and through her attorney of record, Richard Kochansky, and the former Parenting Coordinator, John H. Sahlin, being present as a witness for Respondent, and upon hearing argument from both parties and reviewing the documents submitted by the parties:

IT IS HERBY DETERMINED AND ORDERED:

The motions filed by Respondent request changes/alterations to the existing custody/visitation order. In order to change/alter the terms of an existing custody/visitation order, the moving party must comply with I.R.C.P. 60(c) and allege a "permanent, material change of circumstances." Respondent's motion does not comply with I.R.C.P. 60(c) or allege a "permanent, material change of circumstances" and,


ORDER

RE: Respondent's Motions Heard on 4-3-07

therefore, Petitioner's objections against Respondent's motions are sustained and Respondent's motions are denied (without prejudice).

The Court, having found the Respondent's motions have been filed in good faith, deny Petitioner's request to impose I.R.C.P. 11 sanctions against Respondent/Respondent's attorney.

Dated this 5<sup>th</sup> day of April, 2007.

  
HONORABLE BENJAMIN SIMPSON  
Magistrate Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6 day of April, 2007, I served a true and correct copy of the foregoing on the individuals listed below, by the following method/s:

Richard Kochansky

Attorney at Law

408 E. Sherman Ave., #309

Coeur d'Alene, ID 83814

☒ U.S. Mail, ~~postage prepaid~~

☐ Hand Delivered

☐ Overnight Mail

☐ Facsimile transmission to \_\_\_\_\_

F. William Hausladen, Jr.

c/o Mark Jones Law Office

123 S. 3<sup>rd</sup>, Suite 9

Sandpoint, ID 83864

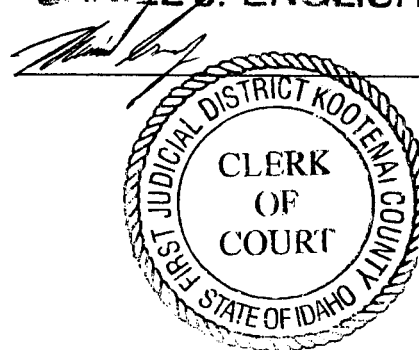
☒ U.S. Mail, ~~postage prepaid~~

☐ Hand Delivered

☐ Overnight Mail

☐ Facsimile transmission to \_\_\_\_\_

**DANIEL J. ENGLISH**



ORDER

RE: Respondent's Motions Heard on 4-3-07

RICHARD W. KOCHANSKY  
408 E. Sherman, Suite 309  
Coeur d'Alene, ID 83814  
(208) 667-4595 ISB #2435  
Attorney for Respondent

STATE OF IDAHO } SS  
COUNTY OF KOOTENAI } 4-10-07  
FILED: 3:40 PM  
AT CLERK, DISTRICT COURT  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

FRANK WILLIAM HAUSLADEN, JR.,

Petitioner,

vs.

SHARI COLENE KNOCHE,

Respondent.

Case No. CV 00-5967

OBJECTION TO ENTRY OF  
PROPOSED ORDER REGARDING  
MOTIONS HEARD 4-3-07

*No changes to  
order objection;  
noted  
4/10/07  
cc counsel  
By R.S.*

COMES NOW Respondent, SHARI C. KNOCHE, by and through her attorney, RICHARD W. KOCHANSKY, and hereby Objects to the proposed Order relative to the Motion(s) heard on April 3, 2007 for the following reasons:

1. The Court's decision denying Respondent's Motion was based on the application of Appendix A to the issue of scheduling extra curricular activities; and that based upon the pleadings, review of files, and argument of counsel, the appointment of a Guardian ad Litem was not justified at this time. The decision was not based on non-compliance with IRCP 60(c);

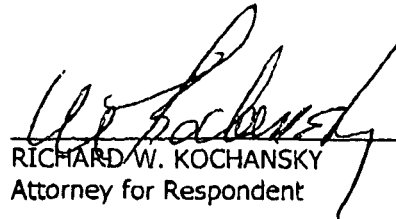
2. The Court did, however, state that all future filings that would otherwise alter the Order entered on February 5, 2005 for custody and support, and any future motion for appointment of Guardian ad Litem must comply with IRCP 60(c);

3. The Court also stated that a future IRCP 60(c) motion would call for the appointment by the Court of an attorney to represent the child, with cost of said representation to be divided pursuant to Child Support percentages.

OBJECTION TO ENTRY OF PROPOSED ORDER - 1

WHEREFORE, Respondent request that any and all reference to non-compliance with IRCP 60(c) or non adherence to its requirements be stricken from the proposed Order.

DATED this 9<sup>th</sup> day of April 2007.

  
RICHARD W. KOCHANSKY  
Attorney for Respondent

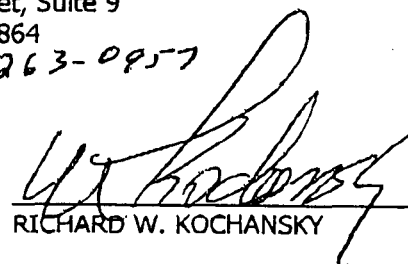
### CERTIFICATE OF DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing Objection to Entry of Proposed Order was served via:

- ☒ US Mail, postage prepaid  
☒ Facsimile  
☐ Personally Delivered

This 9<sup>th</sup> day of April 2007 to:

F. William Hausladen  
c/o Mark Jones Law Office  
123 S. Third Street, Suite 9  
Sandpoint ID 83864  
Fax No. 208-263-0957

  
RICHARD W. KOCHANSKY

*CC by facsimile PLE 9 DA 4-10-07 MIE*



ORIGINAL

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED

JOHN H. SAHLIN  
Attorney at Law  
P.O. Box 194  
Coeur d'Alene, Idaho 83816-0194  
(208)964-0832 fax (208)664-4370  
ISB No. 3303

2007 APR 26 AM 11:55

CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
DISTRICT COURT

F. WILLIAM HAUSLADEN, JR.,	)	CASE NO. CV-00-5967
	)	
Petitioner/Appellant,	)	
	)	
SHARI COLENE (DAWSON) KNOCHE,	)	
	)	
Respondent.	)	
	)	
JOHN H. SAHLIN, Judgment Creditor on Appeal	)	
	)	

**BRIEF OF JUDGMENT CREDITOR ON APPEAL**

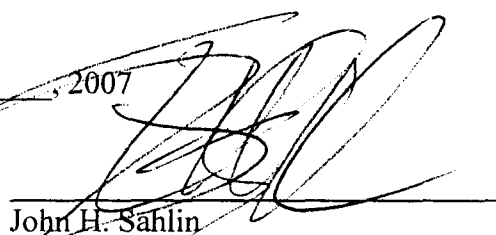
Appeal from the Magistrate Court of the First Judicial District for Kootenai County  
Honorable Barry Watson, Magistrate Judge Presiding

**INTRODUCTION, ARGUMENT, CONCLUSION, RELIEF SOUGHT, ETC.**

What Petitioner fails to mention or admit in his opening brief is: (1) the record on appeal is devoid of any objection to the appointment of the Parenting Coordinator ("PC") until after the PC set a motion for entry of judgment for fees; (2) the record on appeal is devoid of any objection from the Petitioner to the various "Orders/Recommendations" filed by the PC during his tenure based on the arguments the Petitioner is making on appeal; (3) the record on appeal is devoid of any demand by Petitioner for the return of any monies he paid to the PC after the court below announced the appointment of the PC; (4) the transcript on appeal from the various hearings below is devoid of any testimony from the Petitioner indicating that he in any way resisted the efforts the PC made in order to carry out his responsibilities— that is, until the hearing on the motion for judgment (and that, strictly speaking, was argument, not testimony).

Therefore, the appeal is frivolous and the appellate court should declare it so and award fees and costs to the Judgment Creditor on Appeal, as allowed by I.C. 12-120 and 12-121.

DATED this 25 day of April, 2007

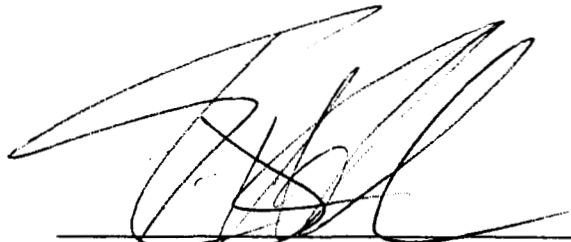
  
John H. Sahlin

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was, on April 25, 2007  
☐ hand delivered  
☒ faxed  
☒ mailed by first class mail, postage prepaid  
to the following:

Richard W. Kochansky - FAX 765-3867

F. William Hausladen, Jr.  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Ste. 9  
Sandpoint, ID 83864



John R. Sahlin

Frank William Hausladen, Jr., Petitioner  
 c/o Mark Jones Law Office  
 123 S. 3<sup>rd</sup>, Suite 9  
 Sandpoint, ID 83864

STATE OF IDAHO }  
 COUNTY OF KOOTENAI } SS  
 FILED

2007 MAY 16 PM 4:08

CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
 OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
 DISTRICT COURT

FRANK WILLIAM HAUSLADEN, JR. )

Petitioner/Appellant, )

CASE NO. CV-00-5967

vs. )

SHARI COLENE DAWSON )

Respondent, )

JOHN SAHLIN (former Parent. Coordinator) )

Judgment Creditor/Respondent )

**APPELLANT'S REPLY BRIEF**

Appeal from the Magistrate Court of the First Judicial District for Kootenai County

Honorable Barry Watson, Magistrate Judge Presiding

0000

**The Judgment Creditor's Legal "Assumption" Is Grossly Incorrect**

Mr. Sahlin's main "argument" in his brief seems to be that the "record" does not support the Petitioner's claims. I.R.C.P. 83(n) states:

**[t]he official court file of any court proceeding appealed to the district court, including any minute entries or orders together with exhibits offered or admitted shall constitute the clerk's record in such appeal.**

As the Court is aware, the contents of the Kootenai County Clerk's file for this case is a part of "the record" for this appeal. Therefore, Mr. Sahlin's arguments related to any proof or information being "devoid" is an absolute misrepresentation of the facts and/or a failure to conduct a reasonable inquiry prior to submitting his brief. The transcript of the various hearings (consisting of 185 pages) is an ample "record" to justify the allegations in this appeal. In addition, Petitioner filed numerous written objections/appeals<sup>1</sup> to the "Order/Recommendations" of the Parenting Coordinator which are contained in the "official court file". Petitioner also filed a petition<sup>2</sup> for the removal of the Parenting Coordinator. The objections and petition filed by Petitioner are all part of the "clerk's record" for purposes of this appeal pursuant to I.R.C.P. 84(n).

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<sup>1</sup> Said documents were filed in October and November of 2005 and were the subject matter of the hearing held on December 7, 2005 (see transcript pages 1 – 37).

<sup>2</sup> Said petition was filed in December, 2005 and was the subject matter of the hearing held on December 30, 2005 (see transcript pages 38 – 67).

**What The Judgment Creditor's Brief Fails To Do**

The former Parenting Coordinator/Judgment Creditor/Respondent cited no factual information from the transcript, order, motion or any other portion of the clerk's record<sup>3</sup> (the record for this appeal). The former Parenting Coordinator/Judgment Creditor/Respondent cited no rules of civil procedure, statute<sup>4</sup>, or case law. Most importantly, the former Parenting Coordinator/Judgment Creditor/Respondent rebutted nothing in the Petitioner's brief.

The main issue in Appellant's brief is: The Parenting Coordinator had no power to act (exceeded his mandate, violated I.R.C.P. 16(l) and/or I.C. Section 32-717D and/or the order of appointment). The issue is fully analyzed by Petitioner, supported by facts cited to the record and Idaho law. Nothing in the Judgment Creditor's brief disputes this issue.

Another issue set forth in Appellant's brief is the trial court's conduct and/or misconduct at Mr. Sahlin's hearing on his motion for "Order to Show Cause" which resulted in an "abuse of discretion" and/or a "mistake in law." Again, the issue is fully analyzed by Petitioner, supported by facts cited to the record and Idaho law. Again, the Judgment Creditor set forth no arguments, legal authority or facts to contradict this issue.

The Judgment Creditor has set forth nothing that contradicts the contents of Petitioner's brief relating to the Judgment Creditor's misrepresentations while under oath or his "lack of candor" to the tribunal at the June 5, 2006 hearing.

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<sup>3</sup> As defined in I.R.C.P. 83(n).

<sup>4</sup> Relating to the issues on appeal although the Judgment Creditor did cite I.C. Sections 12-120 and 12-121 in his request for fees and/or costs on appeal.

All in all, the Judgment Creditor, by his failure to address the issues in his brief, agrees with the legal analysis and factual analysis of the issues set forth by Petitioner.

**What The Judgment Creditor's Brief Stands For**

As set forth above, the Judgment Creditor fails to address, let alone rebut, anything of consequence that is on appeal. The Judgment Creditor's brief does, however, stand for something of issue that is on appeal: it illustrates Mr. Sahlin's absolute disregard for his duty of "candor to the tribunal".

The Judgment Creditor's first argument (Petitioner's failure to object to the appointment of the Parenting Coordinator) has nothing to do with any issue on appeal. In addition, the argument contains another misrepresentation: Petitioner has never objected to the appointment of the Parenting Coordinator – Petitioner only objected to the Parenting Coordinator's ultra vires acts and the time charged while the acts were committed. The second argument (the record is devoid of any objections by Petitioner to the Parenting Coordinator's "Orders/Recommendations") is an absolute misrepresentation of the facts as discussed above.<sup>5</sup> The third and fourth arguments of the Judgment Creditor make no sense after reviewing the issues on appeal.

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<sup>5</sup> See Petitioner's objections filed in October and November of 2005, the petitioner for the removal of the Parenting Coordinator and the transcript of the December 7, 2005 hearing and the December 30, 2005 hearing.

**The Judgment Creditor's Arguments On the Issues Are  
Limited to Those Set Forth in His Brief**

Probably the most important arguments in Mr. Sahlin's brief are those arguments that are "devoid." Mr. Sahlin fails to argue that he: did not violate the terms of the order of appointment, did not violate Idaho Law, did not violate I.R.C.P. 16(1), and/or did not make misrepresentations while under oath. Mr. Sahlin's brief is "devoid" of any and all defenses. Therefore, the Judgment Creditor is barred<sup>6</sup> from raising new arguments or issues at the hearing on this appeal. Oral argument is intended to expand on the explanation of the issues and/or arguments set forth in the briefing or for the appellate court to inquire, not to open new avenues of defense.

The Judgment Creditor's failure to analyze the core issues of this appeal mean only one thing: the Judgment Creditor cannot rebut the allegations in Petitioner's brief.

**Judgment Creditor's Request for Costs and Fees Is Not Supported In Fact or Law**

The Judgment Creditor's request for costs and/or fees is not supported by existing legal principles nor is it supported by the record.

**Demand For Sanctions Pursuant To I.R.C.P. 11**

As discussed above, the contents of the Judgment Creditor's brief contain misrepresentations of fact and/or law. The misrepresentations are either purposeful or are incorrect due to the Judgment Creditor's failure to make a reasonable inquiry into the

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<sup>6</sup> Estoppel, latches and/or issue preclusion.



facts and/or law. The Judgment Creditor, after signing the brief and filing the document with the court, has subjected himself to sanctions as set forth in I.R.C.P. 11(a)(1):

**Rule 11(a)(1). Signing of pleadings, motions, and other papers; sanctions.**

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one (1) licensed attorney of record of the state of Idaho, in the attorney's individual name, whose address shall be stated before the same may be filed. A party who is not represented by an attorney shall sign the pleading, motion or other paper and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certificate that the attorney or party has read the pleading, motion or other paper; that to the best of the signer's knowledge, information, and belief after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

Petitioner requests that the court impose sanctions on the Judgment Creditor as prescribed by I.R.C.P. 11(a)(1) including but not limited to any and all costs incurred by Petitioner on this appeal.

**Demand for Attorney Fees and Costs**

The "brief" filed by the Judgment Creditor addresses no real issue on appeal and is either a significant misunderstanding of the law, a gross misrepresentation of the facts or a combination of the two. The Judgment Creditor has rebutted no arguments set forth

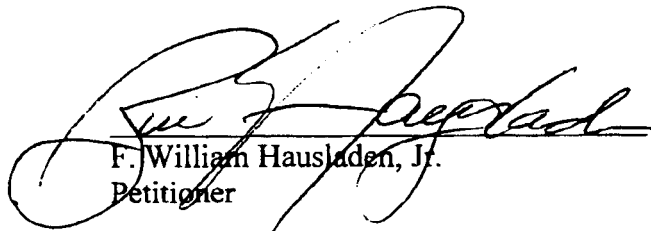
by Petitioner, has provided no legal authority for his position<sup>7</sup> and made no cite to the record. All in all, the Judgment Creditor's defense of this appeal is "frivolous, unreasonable and/or without foundation" and Petitioner is entitled to costs and fees under I.C. Section 12-121 and/or 12-120.

### Conclusion

The Judgment Creditor's "defense" of this appeal is not supported in law or in fact. As discussed above, the Judgment Creditor's brief fails to deny or disprove any of the issues on appeal.

Petitioner requests that the court provide Petitioner with the relief sought by Petitioner as set forth in the original brief as well as an award of fees and costs incurred by Petitioner in this appeal.

Dated this 16<sup>th</sup> day of May, 2007.



F. William Hausladen, Jr.  
Petitioner

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<sup>7</sup> Other than a cite to I.C. Sections 12-120 and 12-121 in his request for costs and fees.

CERTIFICATE OF SERVICE

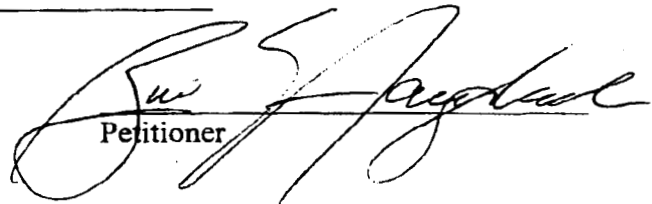
I hereby certify that on this 16<sup>th</sup> day of MAY, 2007, I served a true and correct copy of the foregoing on the individuals by the methods listed below:

Richard Kochansky  
408 Sherman Avenue, Suite 309  
Coeur d'Alene, ID 83814

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ Facsimile transmission to: \_\_\_\_\_

John Sahlin  
P.O. Box 194  
Coeur d'Alene, ID 83816

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ Facsimile transmission to: \_\_\_\_\_

  
Petitioner

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 32610

2007 JUN 13 PM 2:48

FRANK WILLIAM HAUSLADEN, JR., )

Petitioner-Appellant, )

v. )

SHARI COLENE (DAWSON) KNOCHE, )

Respondent. )

2007 Unpublished Opinion No. 456

Filed: May 30, 2007

Stephen W. Kenyon, Clerk

THIS IS AN UNPUBLISHED  
OPINION AND SHALL NOT  
BE CITED AS AUTHORITY

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John P. Luster, District Judge; Hon. Barry E. Watson, Magistrate.

Order denying motion for attorney fees, affirmed; order denying motion for costs, vacated and case remanded.

F. William Hausladen, Jr., Sandpoint, pro se appellant.

Richard W. Kochansky, Coeur d'Alene, for respondent.

LANSING, Judge

Frank Hausladen, Jr. appeals from the magistrate's denial of his motion for costs and attorney fees incurred in defense of Shari Knoche's petition to modify a child support and custody order. We affirm in part, reverse in part, and remand.

I.

FACTUAL & PROCEDURAL BACKGROUND

In 1998, Shari Dawson (now Shari Knoche) gave birth to a child named Brandon. In 2000, Frank Hausladen, the putative father, filed a petition seeking orders regarding filiation, custody, visitation and child support. On a stipulation of the parties, the magistrate court on May 29, 2001, entered an order decreeing that Frank was Brandon's father and granting joint legal and physical custody, with primary physical custody to Frank, and minimal child support to be paid by Shari. The order further provided schedules for Frank's and Shari's periods of physical custody of the child, hereinafter referred to as "parenting time."

On October 14, 2003, Shari filed a petition to modify the previous order, which initiated the present proceedings. The petition did not state what specific relief was sought, but merely requested “modification of the custody and parenting time.” However, the petition also stated that Shari entered into the previous stipulated order based upon an unfavorable psychological evaluation of herself (diagnosing an emotional disorder) that she now viewed as flawed and that she was now at home full-time and therefore able to provide “maximum attention” to Brandon. Through the course of the proceedings, it became apparent that Shari was seeking primary physical custody of the child or, in the alternative, an increase in her parenting time.

Frank filed an answer and counterclaim seeking a change in parenting time in consideration of Brandon’s starting kindergarten that fall. Prior to trial, both parties filed contempt motions related to the 2001 stipulated order. The magistrate granted Frank’s motion to find Shari in contempt for failure to pay child support and her share of childcare expenses and denied Shari’s motion regarding insurance premiums not treated by Frank as an offset.

At the close of Shari’s case, the magistrate granted Frank’s motion for dismissal<sup>1</sup> of that portion of Shari’s case seeking a change in primary custody. However, following the presentation of all evidence, the magistrate granted Shari additional parenting time and eliminated Shari’s child support obligation of \$18.00 per month.

After the entry of that order, Frank filed a motion for costs and for attorney fees pursuant to Idaho Code section 12-121. At a hearing, the magistrate denied the motion in its entirety. Frank appealed to the district court, which succinctly “denied” the appeal. Frank, now appearing pro se, timely appeals from the district court’s appellate order.

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<sup>1</sup> The magistrate’s order states that it granted a “directed verdict” on this issue in favor of Frank. This incorrect parlance is continued by the parties on appeal. A directed verdict is only applicable in jury trials. See I.R.C.P. 50. Where a court trial is involved, a defendant may move for *dismissal* of one or more of the plaintiff’s claims prior to the defendant’s presentation of evidence. See I.R.C.P. 41(b); *Nelson v. Marshall*, 94 Idaho 726, 733, 497 P.2d 47, 54 (1972). We also note that Shari contends that Frank’s assertion that the magistrate dismissed that portion of Shari’s case seeking primary physical custody at the close of her case-in-chief, without considering any of Frank’s evidence, is not so. Shari points out that two of Frank’s witnesses, Dr. Mark Mays, Ph.D., and Tami Kruz, a counselor, were permitted to testify out-of-order during Shari’s case.

## II. ANALYSIS

### A. Idaho Code § 32-704(3) is not the Exclusive Provision for an Award of Costs or Attorney Fees

Frank first contends that the magistrate misapprehended the law that was applicable to Frank's request for costs and attorney fees. In ruling on Frank's motion, the magistrate first stated, apparently referring to I.C. § 32-704(3),<sup>2</sup> that in family law cases requests for attorney fees and costs are "controlled by a specific statute." Frank argues that to the extent that the magistrate held that I.C. § 32-704(3) is the exclusive provision for an award of costs or attorney fees in a custody case, the court was in error. Shari appears to assert that the magistrate was correct by arguing that the "applicable Idaho Law in divorce and custody cases for attorney fees and costs is I.C. §§ 32-704, 32-705 and 32-706." In this case, the parties' briefs are not models of clarity on this, or any other, issue.

It is not entirely clear that the magistrate held section 32-704(3) to be controlling, for the magistrate also made cursory references to prevailing party, which is a relevant inquiry on a request for costs under the Idaho Rules of Civil Procedure and for attorney fees under I.C. § 12-121; and also made findings regarding whether Shari's pursuit of the proceeding was frivolous, which is a relevant inquiry under I.C. § 12-121. Neither of these inquiries is strictly relevant to an award of costs or attorney fees under I.C. § 32-704(3). Without resolving this question as to the basis of the magistrate's decision, it suffices for this Court to say that Frank is correct in asserting that section 32-704(3) is not the exclusive basis for an award of attorney fees in a child custody or child support proceeding. In *Hentges v. Hentges* 115 Idaho 192, 197, 765 P.2d 1094, 1099 (Ct. App. 1988), we held that "Idaho Code § 32-704(2) is not the exclusive avenue available to a party seeking attorney fees" in a family law case and that "I.C. § 12-121 applies to

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<sup>2</sup> Idaho Code § 32-704(3) provides:

The court may from time to time after considering the financial resources of both parties and the factors set forth in section 32-705, Idaho Code, order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this act and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

all civil actions.” *Id.* at 197, 765 P.2d at 1099. *See also Lieurance-Ross v. Ross*, 142 Idaho 536, 129 P.3d 1285 (Ct. App. 2006) (applying I.C. § 12-121 in a custody case). If I.C. § 32-704(3) is not the exclusive avenue available to a party seeking attorney fees in a family law case, it necessarily follows that this statute is also not the exclusive avenue for a award of costs,<sup>3</sup> and we so hold.

**B. Idaho Code § 12-121 Attorney Fees**

Frank next contends that the magistrate erred in denying that portion of his motion seeking an award of attorney fees under I.C. § 12-121. For a party to be awarded attorney fees under I.C. § 12-121, that party must be determined to be the “prevailing party,” as defined in I.R.C.P. 54(d)(1)(B), and the opposing side must be found to have brought, pursued, or defended the case frivolously, unreasonably or without foundation. *See* I.R.C.P. 54(e)(1). The magistrate found that Shari’s case was not frivolous because, although she did not obtain primary physical custody, she did obtain significant modifications in the allocation of parenting time.

In this appeal, Frank argues that, contrary to the magistrate’s finding, Shari’s case was frivolous. His argument, in a nutshell, is that the “main thrust” and “core issue” of Shari’s case was seeking primary physical custody of the child, and because Frank obtained a dismissal of that issue, Shari’s case was, necessarily, frivolously pursued.

Frank’s argument is without merit. In *McGrew v. McGrew*, 139 Idaho 551, 82 P.3d 833 (2003), our Supreme Court held:

An award of attorney fees under Idaho Code § 12-121 is not a matter of right to the prevailing party, but is appropriate only when the court, in its discretion, is left with the abiding belief that the case was brought, pursued, or defended frivolously, unreasonably, or without foundation. *Nampa & Meridian Irrigation Dist. v. Washington Fed. Savings*, 135 Idaho 518, 20 P.3d 702 (2001). *When deciding whether the case was brought, pursued, or defended frivolously, unreasonably, or without foundation, the entire course of the litigation must be taken into account. Id. Thus, if there is a legitimate, triable issue of fact, attorney fees may not be awarded under I.C. § 12-121 even though the losing party has asserted factual or legal claims that are frivolous, unreasonable, or without foundation. Id.*

*McGrew* at 562, 82 P.3d at 844 (emphasis added). *See also Lieurance-Ross*, 142 Idaho at 539, 129 P.3d at 1288. Thus, a party who obtained no relief whatsoever still may not have acted

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<sup>3</sup> The Idaho Rules of Civil Procedure apply, with exceptions not relevant here, to all civil actions. *See* I.R.C.P. 1(a).

frivolously in the proceeding, within the meaning of I.C. § 12-121, as long as that party advanced a legitimate, triable issue of fact.

Here, it is readily apparent that Shari's claims were not entirely frivolous because she did, in fact, obtain some relief. The record fully supports the magistrate's finding that Shari's case was not frivolous because, comparing the original order with the order modifying custody, Shari obtained significant additional parenting time and her child support obligation of \$18.00 per month was eliminated. Therefore, the magistrate correctly denied that portion of Frank's motion requesting attorney fees under I.C. § 12-121.

### **C. Costs**

Frank also challenges the magistrate's denial of his motion for costs. Frank argues that the magistrate erred by not conducting a prevailing party analysis. We agree.

In his briefing, Frank asserts, and Shari makes no argument to the contrary, that his motion for costs was made under Idaho Rule of Civil Procedure 54(d)(1).<sup>4</sup> At the hearing before the magistrate, Shari contended that the motion should be denied and that the parties should be responsible for their respective attorney fees and costs. As part of her argument in opposition, Shari referenced the standards of I.C. § 32-704(3) and contended that disparity of income between the parties provided a legal basis for the denial of Frank's motion. However, the record does not reflect that Shari had made any I.C. § 32-704(3) motion for attorney fees or costs,<sup>5</sup> the hearing transcript does not reference any such motion, the magistrate did not deny any such motion at the hearing and, in this appeal, Shari does not contend that she made any such motion. Therefore, Shari's argument based on I.C. § 32-704(3) was misplaced and inapplicable to Frank's request for costs under I.R.C.P. 54(d)(1).

As previously noted, I.C. § 32-704(3) is not the exclusive source for an award of attorney fees or costs in a family law case. Here, we need not decide the perplexing issue of the interplay between a request for costs by a prevailing party under the civil rules and an opposing request

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<sup>4</sup> The motion is not in the record on appeal.

<sup>5</sup> At the hearing, Shari made a motion to recover from Frank the cost of an expert witness incurred at a previous hearing. The magistrate denied the motion on the ground that Shari had not shown any basis in the "the law or the rules" for an award of this cost.



made by a non-prevailing party under I.C. § 32-704(3) based on disparity of resources<sup>6</sup> because that circumstance is not presented here. It suffices to say I.C. § 32-704(3) is not a “defense” to a motion for costs under the civil rules where no motion pursuant to I.C. § 32-704(3) is before the trial court. To the extent that the magistrate held that disparity in income justified the denial of Frank’s motion for costs, the magistrate erred. Rather, the magistrate should have applied the standards applicable to requests for costs under I.R.C.P. 54(d)(1).

The magistrate also appears to have been of the view that a prevailing party cannot be effectively determined in a custody case because the child’s best interest is the determinate factor. We disagree. As in any other civil case, a party can be held to have prevailed, or not prevailed, in accordance with the relevant legal standards, which are set forth in the rule itself:

(A) Parties Entitled to Costs. Except when otherwise limited by these rules, costs shall be allowed as a matter of right to the prevailing party or parties, unless otherwise ordered by the court.

(B) Prevailing Party. In determining which party to an action is a prevailing party and entitled to costs, the trial court shall in its sound discretion consider the final judgment or result of the action in relation to the relief sought by the respective parties. The trial court in its sound discretion may determine that a party to an action prevailed in part and did not prevail in part, and upon so finding may apportion the costs between and among the parties in a fair and equitable manner after considering all of the issues and claims involved in the action and the resultant judgment or judgments obtained.

I.R.C.P. 54(d)(1)(A) and (B). A prevailing party determination is committed to the discretion of the trial court. *Eighteen Mile Ranch, LLC v. Nord Excavating & Paving, Inc.*, 141 Idaho 716, 718-19, 117 P.3d 130, 132-33 (2005). Prevailing party analysis is done from an overall view of the action, taking into account what was sought by the parties compared to what was obtained. *Id.* A trial court’s sense of justice, beyond the judgment rendered in the action, is to play no part in prevailing party analysis. *Id.* at 720, 117 P.3d at 134.

Because the magistrate here did not make a prevailing party determination as required by Rule 54(d)(1), we remand for reconsideration of Frank’s motion for costs, which will require a

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<sup>6</sup> We note that in ruling on a motion for attorney fees and/or costs under I.C. § 32-704(3), a trial court *must* consider and cite, in its decision, the factors, as relevant, set forth in I.C. § 32-705. *Jensen v. Jensen*, 128 Idaho 600, 606, 917 P.2d 757, 763 (1996). Further, disparity of income, standing alone, is insufficient to justify an award of costs or attorney fees under the statute. Instead, an award under the statute “is not appropriate where a party has the financial resources necessary to prosecute or defend the action.” *Id.*

determination of whether either party was the prevailing party, or either party prevailed in part, pursuant to I.R.C.P. 54(d)(1)(B). The magistrate's consideration of the overall relief sought by the parties in this action should include the claims or requests reflected in the parties' pleadings and proposed parenting plans regarding primary custody, parenting time, and child support,<sup>7</sup> as well as the parties' respective motions for contempt, Shari's motion for a temporary change of custody pending trial, and any other substantive motions for relief that were filed prior to Frank's motion for costs and recognized by the court as relevant. In making its findings, the magistrate may consider whether the issue of primary physical custody of the child was the overarching issue in the case.

#### D. Costs and Attorney Fees on Appeal

Frank requests attorney fees on appeal pursuant to I.C. § 12-121. His request is without merit for at least two reasons. First, an attorney acting as a pro se litigant may not recover attorney fees. *Barbee v. WMA Securities, Inc.*, 143 Idaho 391, 397, 143 P.3d 657, 663 (2006); *Bowles v. Bowles*, 132 Idaho 371, 377, 973 P.2d 142, 148 (1999). Second, Shari did not defeat this appeal frivolously, but instead prevailed on the issue of trial attorney fees. Frank's request for attorney fees on appeal is therefore denied.

Shari also requests attorney fees on appeal pursuant to I.C. § 12-121. She is not entitled to attorney fees under this statute because Frank did not pursue this appeal frivolously, but instead prevailed on his assertion that the magistrate erred in ruling on his motion for costs.

Shari also requests attorney fees in this appeal pursuant to I.C. §§ 32-704, 32-705 and 32-706. She is not entitled to attorney fees under the latter two statutes as they contain no attorney fee provisions. As to I.C. § 32-704(3), it is the policy of the Idaho appellate courts that the determination of an award of attorney fees under this statute falls within the province of the trial court and, in the absence of a trial court award, appellate courts will allow attorney fees under this statute only upon a showing that such action is necessary to the exercise of appellate jurisdiction. *Larson v. Larson*, 139 Idaho 972, 979-80, 88 P.3d 1212, 1219-20 (Ct. App. 2003).

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<sup>7</sup> The magistrate's order modifying custody reflected that the issue whether Frank should pay child support was left unresolved. At oral argument, counsel for Shari stated that this claim has not been further pursued. While child support proceedings are under the continuing jurisdiction of the magistrate and may be reopened in proper circumstances, for purposes of the present prevailing party analysis, Shari is deemed to have abandoned that request.

The magistrate did not award any attorney fees or costs to Shari under this statute, and the appellate exception does not apply here. Therefore, Shari's request for attorney fees is denied.

Finally, both sides request costs on appeal pursuant to Idaho Appellate Rule 40. Given that each party prevailed on one issue, we hold that neither party prevailed in this appeal and each is to bear his or her own costs.

**E. Conclusion**

The magistrate's order denying Frank's motion for attorney fees is affirmed. The order denying Frank's motion for costs is vacated and the matter is remanded to the magistrate division for reconsideration of that request.

Chief Judge PERRY and Judge Pro Tem WALTERS CONCUR.

I, Stephen W. Kenyon, Clerk of the Court of Appeals of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office. 5/30/07  
WITNESS my hand and the Seal of this Court \_\_\_\_\_

STEPHEN W. KENYON

Clerk

By: \_\_\_\_\_

Deputy

STATE OF IDAHO  
COUNTY OF KOOTENAI } SS  
FILED:

2007 SEP 19 PM 2: 09

CLERK DISTRICT COURT

DEPUTY

*Chenyzid*

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
DISTRICT COURT

F. WILLIAM HAUSLADEN, JR.,	)	CASE NO. CV-00-5967
	)	
Petitioner/Appellant,	)	JUDGMENT ON APPEAL
	)	
SHARI COLENE (DAWSON) KNOCHE,	)	
	)	
Respondent.	)	
	)	
JOHN H. SAHLIN, Judgment Creditor on Appeal	)	
_____	)	

This matter, an appeal from the trial court below, came on for hearing on appeal on August 30, 2007, with the Petitioner/Appellant and the Judgment Creditor on Appeal attending personally, pro se. The Respondent did not appear in person or through counsel.

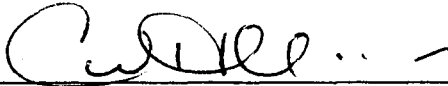
Having heard oral argument and having considered the written briefings submitted by the aforementioned parties or parties in interest, and good cause having been shown herefor, it is hereby ordered as follows:

1. The judgment for fees entered by the trial court below against Petitioner/Appellant and in favor of the Judgment Creditor acting in the matter below as Parenting Coordinator is hereby affirmed.
2. The trial court did not err in its treatment of Petitioner's objection to the motion for order to show cause filed by the Parenting Coordinator in the matter below.
3. The trial court did not err by not disqualifying himself from hearing the Parenting Coordinator's motion for order to show cause in the matter below.

4. The trial court committed no reversible errors and did not abuse its discretion in entering judgment against Petitioner/Appellant in the matter below or in hearing the Parenting Coordinator's motion for order to show cause in the matter below.

5. The Parenting Coordinator did not take part in actions in violation of the order of appointment entered by the court below.

DATED this 18 day of September 2007

  
Hon. Charles W. Hosack, District Judge

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was, on 19 SEPT., 2007

☒ faxed

☐ mailed by first class mail, postage prepaid  
to the following:

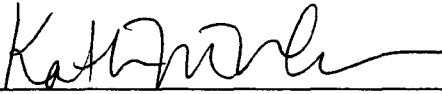
Richard W. Kochansky  
Attorney at Law  
FAX 765-3867 212

F. William Hausladen, Jr.  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Ste. 9  
Sandpoint, ID 83864

MAILED S.A.S.E.

John H. Sahlin  
Attorney at Law  
FAX 664-4370 212

DANIEL J. ENGLISH

  
Clerk

STATE OF IDAHO } SS  
COUNTY OF KOOTENAI }  
FILED: 767947

2007 OCT 26 AM 11:00

CLERK DISTRICT COURT

*Kathleen*  
DEPUTY

F. William Hausladen, Jr., Petitioner  
c/o Mark Jones Law Office  
123 S. 3<sup>rd</sup>, Suite 9  
Sandpoint, ID 83864

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI  
MAGISTRATE DIVISION

FRANK WILLIAM HAUSLADEN, JR.	)	
	)	
Petitioner,	)	CASE NO. CV-00-5967
	)	
vs.	)	NOTICE OF APPEAL
	)	PURSUANT TO
SHARI COLENE KNOCHE	)	I.R.C.P. 83(f)
	)	
Respondent,	)	FEE CATEGORY: _____
	)	
JOHN H. SAHLIN, Judgment Creditor on Appeal	)	FEE: _____
_____	)	

TO THE ABOVE-NAMED RESPONDENT, SHARI COLENE KNOCHE, AND  
YOUR ATTORNEY OF RECORD, RICHARD KOCHANSKY, THE ABOVE-NAMED  
JUDGMENT CREDITOR ON APPEAL, JOHN H. SAHLIN AND TO THE CLERK OF  
THE ABOVE-ENTITLED COURT; NOTICE IS HEREBY GIVEN THAT:

- 1) TITLE OF COURT FROM WHICH APPEAL IS TAKEN: This appeal is taken from the district court division of the above-entitled court and the magistrate court division which the issue was initially heard.
- 2) TITLE OF COURT TO WHICH APPEAL IS TAKEN: This appeal is taken to the Supreme Court of Idaho.
- 3) DATE OF JUDGMENT OR DECISION APPEALED FROM: This appeal is taken from the Order (entitled "JUDGMENT ON APPEAL") entered on September 19, 2007, by the Hon. Charles W. Hosack, District Judge.

- 4) STATEMENTS AS TO FACTS OR LAW: This appeal is taken upon matters of fact and law.
- 5) RECORD: The testimony of the hearing was recorded by the District Court Clerk of the above-entitled court and such records are in the possession of the District Court Clerk of the above-entitled Court. The transcript of the original hearing at the magistrate court level (including the transcript of other hearings related to the Parenting Coordinator) were prepared for the appeal at the district court level and will be provided in this appeal as well.

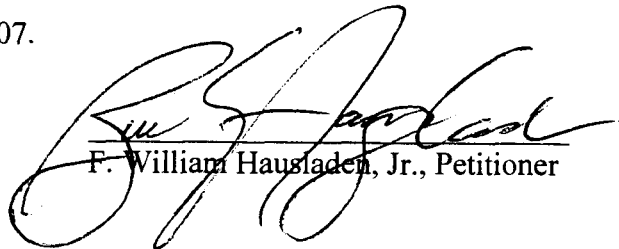
6) ISSUES ON APPEAL:

The issues on appeal are as follows:

- a) Did the magistrate court make a mistake in law and/or abuse its discretion it failed to dismiss the Parenting Coordinator's Motion for Order to Show Cause:
  - i. For lack of standing?
  - ii. The form and content of said motion did not satisfy the requirements of Idaho law and/or the Idaho Rules of Civil Procedure?
  - iii. No order to show cause had been issued by the magistrate court?
  - iv. On such other procedural issues that will be presented in Petitioner's brief.
- b) Did the magistrate court abuse its discretion and/or make a mistake of law when it "transformed" the Parenting Coordinator's Motion for Order to Show Cause into a "Motion to Determine Costs/Fees"?
- c) Did the court appointed Parenting Coordinator, John Sahlin, have any powers authorized by the magistrate court, Idaho law and/or the Idaho Rules of Civil Procedure?

- d) Did the court appointed Parenting Coordinator, John Sahlin, perform acts that violated the terms of any order issued by the magistrate court?
- e) Did the court appointed Parenting Coordinator, John Sahlin, perform acts that violated Idaho law?
- f) Did the court appointed Parenting Coordinator, John Sahlin, perform acts that violated Idaho Rule of Civil Procedure 16(l)?
- g) Did the magistrate court abuse its discretion when it failed to uphold Petitioner's objections to the Parenting Coordinator's Motion for Order to Show Cause?
- h) Is a court appointed Parenting Coordinator entitled to payment if he/she performs acts that:
  - i. Are outside the scope of any order of the magistrate court;
  - ii. Are outside the scope of Idaho law and/or the Idaho Rules of Civil Procedure; and/or
  - iii. Violate the terms of the order of the magistrate court, Idaho law and/or the Idaho Rules of Civil Procedure?
- i) Such other and further issues as may be raised by Petitioner in his briefs on appeal.

Dated this 26 day of October, 2007.

  
F. William Hausladen, Jr., Petitioner



**CERTIFICATE OF SERVICE**

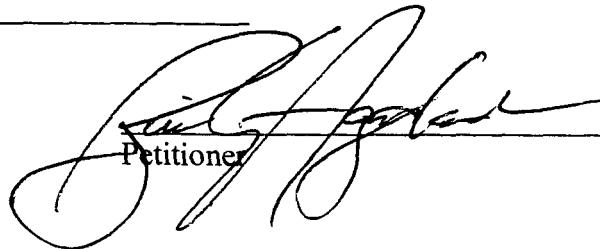
I hereby certify that on this 26 day of October, 2007, I served a true and correct copy of the foregoing on the individuals listed below, by the following method/s:

Richard Kochansky  
408 E. Sherman Ave., #309  
Coeur d'Alene, ID 83814

☒ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

John Sahlin  
P.O. Box 194  
Coeur d'Alene, ID 83814

☒ U.S. Mail, postage prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile transmission to \_\_\_\_\_

  
Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

FRANK WILLIAM HAUSLADEN JR.,	)	
	)	CASE NO. CV 00-5967
Petitioner/Appellant,	)	
	)	
vs.	)	SUPREME COURT DOCKET
	)	NO. 34728
SHARI COLENE KNOCHE,	)	
	)	
Defendant/Respondent,	)	
	)	
JOHN H. SALIN,	)	CLERK'S CERTIFICATE
Judgment Creditor on Appeal.	)	TO THE RECORD
	)	

---

I, Daniel J. English, Clerk of District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that the above and foregoing Record in the above entitled cause was compiled and bound under my direction as, and is a true, full and correct Record of the pleadings and documents under Rule 28 of the Idaho Appellate Rules.

I certify that the Attorneys for the Appellants and Respondents were notified that the Clerk's Record and Reporter's Transcript were complete and ready to be picked up, or if the attorney is out of town, the copies were mailed by U.S. mail, postage prepaid, on the 26 day of Dec., 2007.

I do further certify that the Clerk's Record and Reporter's Transcript will be duly lodged with the Clerk of the Supreme Court.

In witness whereof, I have hereunto set my hand and affixed the seal of said Court at  
Kootenai, Idaho this 26 day of Dec., 2007.

DANIEL J. ENGLISH  
Clerk of District Court

**Susan McCoy**  
By: \_\_\_\_\_  
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

FRANK WILLIAM HAUSLADEN JR.,	)	
	)	CIVIL CASE NO.
Petitioner/Appellant,	)	CV 00-5967
	)	
vs.	)	SUPREME COURT DOCKET
	)	NO. 34728
SHARI COLENE KNOCHE,	)	
	)	
Defendant/Respondent,	)	
	)	
JOHN H. SAHLIN,	)	
	)	
Judgment Creditor on Appeal.	)	
	)	

---

**CLERK'S CERTIFICATE OF SERVICE**

I, Daniel J. English, Clerk of District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that I have personally served or mailed, by United States mail, one copy of the Clerk's Record and the Reporter's Transcript to each of the Attorneys of Record in this cause as follows:

**Attorney for Appellant**

PRO SE  
123 S 3<sup>rd</sup> St #9  
Sandpoint, ID 83864

**Attorney for Respondent**

RICHARD KOCHANSKY  
ISB#2435  
408 E Sherman Ave. #309  
Coeur d'Alene, ID 83814

**Judgment Creditor on Appeal**

John H. Sahlin  
ISB#3303  
PO Box 194  
Coeur d'Alene, ID 83814

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said  
Court at Kootenai, Idaho this 26 day of Dec., 2007

DANIEL J. ENGLISH  
Clerk of District Court

By: **Susan McCoy**  
Deputy Clerk